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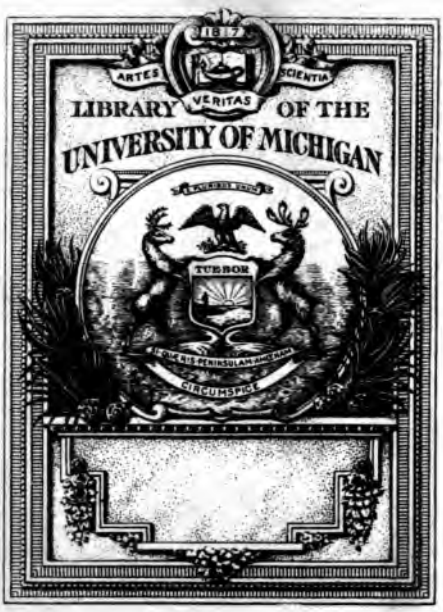
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The Right Honorable Sir John Eardley Wilmot Kn.t

Lord. Chief Justice of the Court of Common Pleas

Died 5 Feb.y 1792. Aged 82.

Forma mentis æterna, quam tenere & exprimere,

non per alienam materiam & artem, sed tuis ipse moribus possis!

Tacitus

Eardley - Wilmot, John

MEMOIRS

OF THE

LIFE

OF

THE RIGHT HONOURABLE

SIR JOHN EARDLEY WILMOT, KNT.

LATE LORD CHIEF JUSTICE

OF THE

COURT OF COMMON PLEAS,

AND

ONE OF HIS MAJESTY'S MOST HONOURABLE PRIVY COUNCIL:

WITH

SOME ORIGINAL LETTERS.

BY JOHN WILMOT, ESQ.

PROFESSIONE PIETATIS——AUT LAUDATUS ERIT AUT EXCUSATUS.
TACITUS.

SECOND EDITION, WITH ADDITIONS.

LONDON:

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TO THE

SECOND EDITION.

THE former edition of these Memoirs in quarto being sold, and it being thought that a smaller and more portable edition would be useful, an opportunity is taken to make some additions both to the Text, to the Notes, and by way of Appendix. Little more, however, is done than to add what was before curtailed. An apology must likewise be made for some of the Letters, which may appear trivial; but as they introduce the subject of others, which relate to the important subject of Education, it was thought excusable to retain them.

MEMOIRS

OF THE

LIFE

OF

SIR JOHN EARDLEY WILMOT, KNT.,

&c. &c.

MEN, who have united talents with ambition, and have been eager in the pursuit of power, wealth, or honours, are the most prominent characters on the great theatre of human life; and if their Country be in proportion benefited by their exertions, the first place, in the pages both of Biography and of History, is undoubtedly due to them: yet there is an advantage as well as a pleasure in tracing the lives of the modest and unambitious, if possessed, in any eminent degree, of genius, learning, or virtue. This, it is hoped, will be a sufficient apology for the following pages.

Sir JOHN EARDLEY WILMOT was the second son of ROBERT WILMOT, of Osmaston in the county of Derby, esq. and of URSULA, one of the daughters and coheiresses of sir Samuel Marow, of Berkswell in the county of Warwick, bart. His great grandfather, sir Nicholas Wilmot, who was a younger son of Robert Wilmot, of Chaddesden in the same county, esq. (from whom the present Sir R. Wilmot of that place is descended) was an eminent serjeant at law in the middle of the seventeenth century. Sir Nicholas[a] had two sons, Robert and Nicholas. Robert the elder was educated at Oxford, and studied the law at Gray's Inn. He represented the borough of Derby in Parliament at the Revolution, and afterwards retired to his country-seat at Osmaston, which he rebuilt. He married Elizabeth[b], daugh-

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There is a tradition in the family, that sir Nicholas was pressed by Oliver Cromwell to accept the office of judge, but that he more than once declined that honour; possibly from his dislike to the measures of the Protector, as well as from his natural modesty and love of retirement.

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ter, and at last sole heiress, of Edward Eardley, of Eardley Hall in the county of Stafford, esq. by whom he had seven sons and one daughter. Robert, the eldest, married Ursula before mentioned, whose mother, lady Marow, was one of the most accomplished women of her time: her epitaph [c],

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Edward unmarried.
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Alice died unmarried, 27th June, 1718, Æt. 66.
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Erected by all the children of Elizabeth then living,
In remembrance of such eminent Examples
Of Piety and Virtue. 1717.

[c] Here lies
Mary Lady Marow,
Only Daughter to Sir Arthur Cayley, &c.
She died Oct. 17, 1714, aged 63.
She was a lady of uncommon merit,
And exemplary in every state of life;

in St. James's church, Westminster, was written by the memorable Dr. Hough, bishop of Worcester, formerly president of Magdalen College, Ox-

Religious and truly charitable, without ostentation,
Habitually good and virtuous, without intermission,
Her Conversation was always agreeable and inoffensive,
Guarded with Prudence and quickened with Good Sense,
Easy to the meanest, and not abject to the greatest,
Which made her universally known to and admired
By persons of the first rank, valued by her equals,
Honored by her inferiors, and beloved by all.
She had a firmness of mind,
Which abundantly made amends for
A weak and tender constitution,
And supported her in all extremities,
To that degree, that no cause of grief,
No pain or sickness, could extort a complaint from her:
She resign'd herself entirely to the will of God,
And the succours of his holy Spirit never fail'd her;
So that in the whole course of her life,
To the last moment of it,
She was a bright and edifying Example
Of Faith, Meekness, and Patience.

By sir Samuel Marow, bart. she had many children,
Five of whom are living,
Anne, married to Sir Arthur Kaye, bart.
Ursula, married to Robert Wilmot, esq.
Mary, married to John Knightley, esq.
Elizabeth and Arabella.

From their Father they share a plentiful inheritance;
And from their Mother, what is infinitely more valuable,
The blessing of having been educated and form'd
After such a Pattern.

ford, who lived in great intimacy with all her family. Robert died in 1738, leaving two sons, Robert and John Eardley, and one daughter, Arabella.

The eldest son Robert was educated at Magdalen Hall, Oxford, and afterwards studied the law in the Inner Temple; but he soon gave up that profession, and obtained employments under Government, which he retained till his death, which took place in 1772, when he was about to retire to his seat in the country.

JOHN EARDLEY was born on the 16th of August, 1709, at Derby, where his father then lived. After having acquired the rudiments of learning at the Free School in that town, under the Rev. Mr. Blackwell, he was placed with the Rev. Mr. Hunter at Lichfield, where he was contemporary with Johnson and Garrick. It is remarkable, that several eminent men have been brought up at this school; beside Addison and Wollaston, Johnson and Garrick, bishop Newton (who was himself of that seminary) remarks, that there were at one period five judges upon the bench, who had been educated at Lichfield school, viz. lord chief justice Willes, lord chief baron Parker, Mr. justice Noel, sir Robert Lloyd, baron of the exchequer, and Mr. justice, afterwards lord chief justice, Wilmot.

He did not keep up much acquaintance with Johnson, his professional pursuits and residence

in the country taking him into a different line of life; but he used frequently to mention Johnson as a long, lank, lounging boy, whom he distinctly remembered to have been punished by Hunter for idleness.

He renewed his acquaintance with Garrick when he came on the stage, and was present at his first appearance in Goodman's Fields, in October 1741. He was frequent in his attendance on the theatre when Garrick acted, and was present also at his last performance, in June 1776. Garrick was some years younger than Mr. Wilmot, and would not quite acknowledge him as his school-fellow; he told Mr. W. (then sir Eardley) one day, at the duke of Newcastle's table, that it was his elder brother whom he must have remembered at Lichfield school. But as Mr. Wilmot was fourteen when he left Lichfield, and Garrick only eight years old, it is more likely that the latter should be mistaken. Sir Eardley used to say that he went by the name of "little Garrick."

Mr. Garrick related to the Editor of these memoirs, that he attended the King's Bench one day, on the trial of a cause relative to an intrigue which had happened in a certain family (which he named) in Staffordshire, and in which all the eminent counsel who attended that circuit were concerned. As it related to a family he knew, and was much the topic of conversation, he wished to hear the particulars, and had planted himself in a snug

place, where he thought he should not be observed. He had staid there some hours, when there appeared so much confusion and contradiction in the account of the business, that the court, as well as himself, were quite at a loss to unravel, or even understand it. "At length," says he, "Mr. Wilmot rose, who immediately explained "the whole in so clear and animated a manner, "as to charm, as well as inform, every one who "heard him. I was delighted," says Garrick, "with the wit and sprightliness with which he "described every part of the business, and every "character concerned in it, pluming myself upon "being quite private and unobserved in so great a "crowd, and little thinking that I should be so "soon brought on the stage myself; which the "counsel did by declaring, 'in short, my Lord, "it is nothing more than the story of *The In-*"*triguing Chambermaid and Lying Valet*[d];' and "immediately casting his sparkling eye upon me "in my retired corner, it had such an instanta-"neous effect, by drawing upon me the notice of "the whole court, that I thought I should have "sunk into the earth."

Garrick, as appears in the life of that celebrated actor by Mr. Murphy, was an assiduous student of nature; and the Editor recollects an instance of it about thirty years ago, when he brought a

[d] Two entertainments written by Garrick, and then acting with great applause.

son of Mr. Loutherbourg's with him from Paris, to be delivered to Mr. Garrick, who went with the Editor in search of the father for several hours, and, not finding him at home, would not leave the youth at his house, "in order that he might "not lose the opportunity," as he declared, "of "seeing the interview between the son and his "father."

In January 1724, Mr. W. was removed to Westminster school, and placed under Dr. Freind; here, and at Trinity Hall in Cambridge, where he resided until January 1728, he laid the foundation of many friendships, which he preserved through a long life; and with some persons, who afterwards attained the highest offices in church and state; among these were Drummond, archbishop of York, lord chancellor Northington, and Henry Bilson Legge, afterwards chancellor of the exchequer, the last of whom continued one of his most intimate friends till his death in August 1764. At the university, he contracted a passion for study and retirement that never quitted him during life; and he was often heard to say, that at this time the height of his ambition was to become a fellow of Trinity Hall, and to pass his life in that learned society. This natural disposition had induced him to give the preference to the Church; but his father, who was a man of sagacity as well as reading, had destined him to the study of the Law, which he accordingly prosecuted with much diligence at the

Inner Temple, and was called to the bar in June 1732.

In 1743 he married SARAH, daughter of Thomas Rivett, of Derby, esq. afterwards representative of that borough in parliament. It has been remarked, that bishop Hough wrote the epitaph of lady Marow, sir Eardley's maternal grandmother, for whose memory he retained a great respect, and with whose daughters he kept up an uninterrupted correspondence. As the following letter mentions the marriage of sir Eardley, and was written by that venerable prelate at the age of 92, a few weeks only before his death, it may not be improper to insert it here. It is addressed to Mrs. Knightley, one of the daughters of lady Marow, and aunt to sir Eardley; the hand-writing is beautiful, and the contents exhibit an interesting picture of elegant urbanity in extreme old age, as well as of Christian fortitude and resignation.

" 4th April, 1743.

" Madam,

" Three months are passed since you honoured me with a letter, which deserved my earliest and best thanks. I had heard of the young gentleman's painful indisposition; I felt the concern of a truly affectionate friend, and the notice you gave me of his recovery brought ease to my mind; but in good truth I was not then in a condition to tell you so.

"A severe cold disturbed me almost continually; it allowed me to do nothing but doze away the time in rambling, incoherent thoughts, which was no proper time to address the most sensible of my friends. I think I have now gotten the better of it, and am easy as I was before.

"Thus far I had written, when your most obliging letter of March 30th came to my hand, and told me of your kind concern for my welfare. By the mercy of God, I can still say that I never am sick, or feel any sharp pain; but every day is a great portion of the life that can be expected by one so old as I am; and indeed I think I have not many to come. I am much pleased that Mr. Eardley Wilmot has chosen a wife, whose character you approve; 'tis an argument of his good sense, that he looks not after money in the first place; for if God gives him life and health, he cannot fail of making his fortune. I grow weary of my pen, but cannot leave off."

[The bishop then goes on to mention other subjects of a private nature, and concludes]

"Receive this as the last letter that is likely to be written by the hand of,

Madam,

Your sincerely affectionate friend,

and obedient faithful servant,

Jo. Worcester."[e]

[e] He died the next month, viz. 8th May 1743, in the 93d year of his age, and 53d of his consecration. The follow-

We are not acquainted with any interesting particulars of sir Eardley's life, between the period of his leaving the university and his being in some practice and considerable reputation at the

ing letter from this good bishop to the same lady, Mrs. Knightley, on the loss of her son, a most promising young man in the flower of his age, Fellow of All Souls College, Oxford, is on a subject so applicable to many, and so interesting to all, that it is here inserted.

" Madam,

" I should not have been altogether silent upon a subject that has sate heavy upon my own thoughts, much more upon yours, were I not sure that your better sense suggests all, and more than I am able to say. You know very well, that the true character of a man does not lie in the length of his days, but in the measure of his good qualities; and when that measure is complete, the Almighty, whose eye is always upon him, sees him fitly prepared for a more exalted state, and graciously admits him into it; others advance more slowly to perfection, and are suffered to have their course, as some sorts of fruit are long in ripening, others make haste to maturity, and both are gathered accordingly. It has of old been so frequently observed, as to make it proverbial, that the lustre of those accomplishments which breaks out to our amazement, when we apprehended it to be only in the dawn, shews itself in this world but a little while; we gaze, and it disappears; such people finish their part quickly, and with full applause the scene closes upon them: How infinitely valuable are they, above those who in a long series of life never distinguish themselves!—these last are no sooner out of sight than they are forgotten, but the memory of the other is immortal. We think doubtfully of some that are gone, and uncomfortably of others; but of the good and virtuous we can

bar; but as duty and filial piety, more than inclination, had induced him to embrace the profession of the law, his pursuit after its emoluments was not eager, though his study of it was unre-

have none but pleasing reflections; for, will it be allowed a reasonable cause of grief, that one whom I love is promoted out of my reach, to the height of his most laudable ambition? Would it be friendly in me to keep him back, and postpone his happiness to my own inclinations? I can easily answer, No, by no means; I know he is happy, and I rejoice in it: But he is taken from me, his conversation was extremely endearing, and I lament my own loss: this will not be denied me in a moderate manner; some allowance is due to human frailty; but if I carry my grief to excess, I must bear to be told, that my natural affection is too strong for my *reason*, much more for my *faith*. Reason, by a thousand undeniable arguments, is ready to prove, that what cannot be remedied must be submitted to with the utmost equanimity; and faith, were it lively and active, would open the regions of eternal bliss, and discover those, who have been bright examples in this world, in so glorious a state there, as would animate my hope, abate my regret for their absence, and invigorate my endeavours to follow them. Who can conceive that transport of joy which will attend such a meeting? and how insignificant will the former short separation then appear! Indeed, madam, there was a time when I possessed one, who was the desire of my eyes and the delight of my heart; I relished every thing with her, and nothing without her: we both knew the common fate of mankind, that a parting was unavoidable; was very often the subject of our discourse, and I will not what convulsions attended it; but, I thank God! I had hope of a Christian, and that supported me: And let you and me keep up our spirits, in this confidence, that the vari- nsitory state in which we now live, will soon pass

mitted. He was regular in his attendance on the Terms; but his practice was at this time chiefly confined to the county of Derby, where he was much respected. In town, his business was not great; yet in those Causes in which he was engaged, his merit, learning, and eloquence, were universally acknowledged, and gained him the esteem and approbation of some of the greatest ornaments of the profession; among whom were sir Dudley Ryder, then attorney-general, and the lord chancellor Hardwicke.

In the year 1753, the Chancellor proposed to make him one of his Majesty's counsel, and afterwards King's serjeant; but both these he declined, chiefly from a disinclination to London business, and a wish, that never left him, of retiring altogether into the country. In a letter written to an intimate friend about this time, on the subject of carrying his plan of retirement into execution, he says: "Consider it well, and tell me what you "think of it; for when I have once struck the

over, when we and our friends shall find ourselves together again, inseparable, and unalterably happy for evermore!

I am, Madam,

Your affectionate and faithful servant,

February 2, 1731. Jo. Worcester." *

* The Editor has several letters of bishop Hough to this lady, written in the same style of elegant simplicity, which justify the reputation he had among his contemporaries, of having excelled in epistolary writing.

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Mary Lady Marow,
Only Daughter to Sir Arthur Cayley, &c.
She died Oct. 17, 1714, aged 63.
She was a lady of uncommon merit,
And exemplary in every state of life;

" sail, I cannot set it up again; and therefore it " requires a proper consideration and digestion in " every respect: One thing I am sure of, that any " change must be for the better. The withdraw- " ing from the eyes of mankind, has always been " my favourite wish; it was the first, and will be " the last of my life."

This deliberation terminated in a decided resolution to retire: and, as the writer was informed by a gentleman who was present, he actually made, in the winter of 1754, what he called his farewell speech in the court of exchequer, which he had of late years attended more than any other. Perhaps his disposition was not calculated for forensic disputation, though his profound knowledge and indefatigable labour, as well as ability and penetration, had made him, in the opinion of those who knew him, one of the best lawyers of his time. He had more than one offer of a seat in the house of commons about this period, but he uniformly declined every temptation of this kind.

Having quitted London, with a view to reside entirely in the country, his reputation for integrity, industry, and learning, would probably have brought him as much business in Derbyshire, where he was about to settle, and in the neighbouring counties, as a provincial Counsel ever possessed. But Providence meant to place his merit and extend his influence in a superior

station. Soon after his retirement, a rumour was brought to him of his succeeding sir Martin Wright, as one of the judges of the court of King's Bench: but as he had never made the remotest application, nor even hinted, or felt a desire for the appointment, he did not give the least credit to it, till he received a summons to town for that purpose.

It required a considerable degree of persuasion from his friends to induce him to accept this office, which, however honourable, was totally inconsistent with his favourite object. Probably the circumstance of his having five children, the eldest of whom was not at that time ten years old, seconded the efforts and solicitations of his friends.

It is not known to what particular interest his promotion was immediately owing; but it may be said, consistently with modesty, and certainly with truth, that his high reputation, his integrity and professional knowledge, were the primary causes of his advancement. At the same time, he had already received marks of civility and attention from Lord Hardwicke, the great lawyer, who at that time held the first station in the profession; and had long been in habits of intimacy and friendship with his son, the honourable Charles Yorke; and with sir Dudley Ryder, then lord chief justice of the King's Bench. He was also well known, in his professional and private cha-

racter, to the late duke of Devonshire, who was at that time high in the confidence of his sovereign. This preferment took place in February 1755, and was accompanied, as usual, with the honour of knighthood[f]. Sir Eardley was so un-

[f] He received innumerable congratulations from his friends on this event; but the following, from an eminent solicitor, and one of his first clients in Derbyshire, is so cordial, that I cannot help inserting it.

"Chesterfield, 8th Feb. 1755.

"Sir,

"Your very kind and obliging letter of the 5th instant, informing me that his Majesty had nominated you to succeed Sir Martin Wright, as one of the judges of the court of King's Bench, has filled my bosom with such a mixture of joy and grief, that I can scarce keep my ideas clear of wildness and confusion.

I do most sincerely congratulate you on your advancement to this post of honour, in which you are so deservedly placed; and with equal sincerity I wish you health in the discharge of the duties of it, and that you may have happiness in it, till you make a step to higher preferment: all the other requisites are already your own, and can never be wanting. At the same time, give me leave to express my concern, and lament the loss which the country in general, and my clients in particular, must suffer from the want of a counsellor, who, both in court and chambers, has given universal satisfaction. Let me likewise express and lament the irreparable loss to myself, who, from our earliest acquaintance, have not only conceived the highest sense of ability, integrity, application, kindness, and affection in my friend, but have likewise had an ample experience and enjoyment of them all, in a continued course of business of between twenty and thirty years, ever feeling

fortunate as to lose his friend, sir Dudley Ryder, in little more than a year after his own advancement. Sir Dudley died in May 1756, and left sir Eardley one of his executors[f]. Sir Dudley Ryder was succeeded by Mr. Murray, then created lord Mansfield.

In the autumn of 1756, lord Hardwicke resigned the Great Seal, which was put into the hands of three lords commissioners; lord chief justice Willes, sir S. S. Smythe, and sir John Eardley Wilmot.

When the latter received an intimation that he was to be one of them, he expressed a wish to decline it, as being the junior judge: he thought it would be considered an undue preference; but he gave such universal satisfaction in that important station, that not a few in the profession, inde-

in return, the warmest sentiments of love, respect, and gratitude. I think myself under infinite obligation to you for all past favours, and particularly for this last in your kind and obliging letter.

" Sir,

" Your most obliged, &c.

" Godf. Heathcote."

f " I make my friend and brother, Mr. Justice Wilmot, one of my executors, from whom I entreat it as an act of real friendship, that he would accept of this trouble after I am gone, and incapable of returning the obligation."

Sir Eardley entered upon that office with alacrity, and persevered in it with constancy, till every object of the will was finally accomplished.

pendently of his own immediate friends, thought he would soon preside alone in that court[g]. He had now an opportunity of preferring some men of merit. Among those whom he appointed commissioners of bankrupt, we find the name of Mr. Melmoth, the elegant translator of Pliny's letters, and many of Cicero's choicest works, who gave permission to print the letter below[h].

[g] Nor was this without foundation, as appears from the following extract from a letter to his brother, sir Robert Wilmot, who has endorsed it thus: "18th Nov. 1756, about his "being Lord Keeper."

"SATURDAY.

* * "The acting junior in the Commission is a spectre I started at; but the sustaining of the office alone, I must and will refuse at all events. I will not give up the peace of my mind to any earthly consideration whatever. * * Bread and water are nectar and ambrosia, when contrasted with the Supremacy of a Court of Justice. * * *

"Yours, &c.

"E. WILMOT."

"Ealing, Dec. 6, 1756.

[h] "My Lord,

"I denied myself the satisfaction of waiting upon you till the term was ended, in the hope that I might then be so fortunate as to find you at home; but being disappointed of paying my respects to you in person on Saturday last, I beg leave to return you my thanks in this manner. This favor is so much the more valuable to me, as you were pleased to confer it before I had an opportunity of making any application for that purpose; and I entreat your lordship to do me the justness to believe, that I have the sentiments of it which so singular an obligation deserves. If the public do not speak

In March 1757, sir Eardley had a most providential escape from being destroyed at Worcester, while sitting in court and just beginning to sum

more from what it wishes than what it knows, I shall not be premature if I beseech your lordship to continue the same favourable disposition towards me, when the great seal shall be placed in a single hand; but whatever may be the event, I shall always consider myself as having the honor to be,

My Lord,

Your &c. &c.

Wm. Melmoth."

" Dear Sir,

" When I had the honor of your letter, I was confined to my bed by an indisposition, and still am, which, added to the infirmities of great old age, has rendered me exceedingly feeble both in body and mind. * * * * * * * * I lament this total depression the more, as it disables me to be of the smallest service to you in the pious Memoirs you are preparing for the press, and which I have reason to be firmly persuaded will be a tribute of filial affection and respect, no less honourable to the noble and most respectable lord your father, than to his worthy son.

" My letter from Ealing, dated Dec. 6, 1756, is entirely at your command, to dispose of it in any manner you shall think proper.

" I am just risen from my bed to scribble these imperfect lines, and am too weak to add more than that I am, with the strictest truth, respect, and esteem,

Dear Sir,

Your obliged and faithful servant,

Wm. Melmoth."

Bath, July 21, 1796.

John Wilmot, esq.

up the evidence, by the fall of a stack of chimnies through the roof into court. His first clerk, Mr. John Lawes, was killed at his feet; some other persons also were killed, and several very dangerously hurt. Most of the counsel were gone, and those who remained, got under the great table round which they had been sitting. Among the counsel present were Mr. Aston, Mr. Nares, Mr. Ashhurst, Mr. Skinner, and Mr. Griffith Price; all of whom, it is remarkable, except Mr. Price (who afterwards had a silk gown, and was eminent as a chancery counsel) ascended the bench. The safety of the judge was owing, perhaps, to his presence of mind and resignation, in sitting still till the confusion was over. This circumstance has been often told the writer of these Memoirs, by a gentleman who was an eye-witness of the scene, and could not help observing and admiring his composure on this alarming occasion. His own description and sentiments of it, may be seen in the following extract of a letter written to his wife immediately after.

"Worcester, 15 March, 1757,
"Four in the afternoon.

"I send this by express, on purpose to prevent your being frightened in consequence of a most terrible accident at this place. Between two and three, as we were trying causes, a stack of chimnies blew upon the top of that part of the hall

where I was sitting, and beat the roof down upon us; but as I sat up close to the wall, I have escaped without the least hurt. When I saw it begin to yield and open, I despaired of my own life, and the lives of all within the compass of the roof. Mr. John Lawes is killed, and the attorney in the cause which was trying is killed, and I am afraid some others: there were many wounded and bruised. It was the most frightful scene I ever beheld. I was just beginning to sum up the evidence, in the Cause which was trying, to the jury, and intending to go immediately after I had finished: most of the counsel were gone, and they who remained in court are very little hurt, though they seem to have been in the place of greatest danger. If I am thus miraculously preserved for any good purpose, I rejoice at the event, and both you and the little ones will have reason to join with me in returning God thanks for this signal deliverance; but if I have escaped, to lose either my honour or my virtue, I shall think, and you ought all to concur with me in thinking, that the escape is my greatest misfortune!

"I desire you will communicate this to my friends, lest the news of such a tragedy, which fame always magnifies, should affect them with fears for me.

"Two of the Jurymen, who were trying the cause, are killed; and they are carrying dead and

wounded bodies out of the ruins still. I will write to you again, &c. &c.[k]

JOHN EARDLEY WILMOT."

Such was the immediate effusion from the heart of this pious and humble man, on so sudden and awful an event!

The first object of his patronage in the church was the Rev. Mr. Shipton, the worthy Incumbent of Osmaston in Derbyshire (where sir Eardley resided in the Vacations) who had served that church and two others, for a very small stipend, above thirty years; but this venerable Pastor, though urged more than once to this effect, declined all preferment which might take him from his beloved flock.

" Far other aims his heart had learn'd to prize,
" More skill'd to raise the wretched than to rise[l]."

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[k] In another letter on the same occasion, he says, " It was an image of the last day, when there shall be no distinction of persons, for my Robes did not make way for me. I believe an earthquake arose in the minds of most people, and there was an apprehension of the fall of the whole hall."

[l] The following Extracts of the Letters that passed between sir Eardley and Mr. Shipton on this occasion, may not be unacceptable to the reader.

" London, 4th April 1757.

" Dear Sir,

" I hear a Living or two is likely to fall soon to my turn; as you always rise first in my thoughts upon that subject, and I did not look upon your letters as an actual disclaimer of any

In this period, whilst Sir Eardley was one of the Lords Commissioners of the Great Seal, it was strongly reported that Mr. Noel, who was Chief Justice of Chester, would be appointed Chancellor of Ireland; and he applied to a friend, who had at that time great interest with the Minister, to succeed Mr. Noel in the office it was supposed he would in that case resign. His friend

preferment, I should be glad to know your thoughts and wishes by return of Post; for though I am sure I cannot make you happier than you are, yet I could not be happy myself, if I did not make you a tender of my good offices.

"I am, &c.

"JOHN EARDLEY WILMOT.

"Rev. Tho. Shipton."

"Sir,

"You know that I am intrusted with plurality of Benefices, contiguous and very small in every respect; and as I am so conveniently situated, that I am always at hand to perform divine Offices, and to teach my little flock, by my constant example as well as doctrine, I may hope that God will accept of this discharge of duty from me. The general good of the Church is the principle by which every Clergyman ought to direct himself; and to enter upon a remote Benefice, advancing in years and less active in life, a Cure on which perhaps I should not chuse to reside long, would shew more of the lucrative mind than the pastoral care, and therefore I think I ought to disclaim it.

"I shall ever acknowledge, &c.

"THOMAS SHIPTON."

This good old man lived to the age of 80, and left his savings, about 200*l.*, to his nieces.

wished to dissuade him from it; but he replied, "that he thought there would be no difficulty in the application, as he should give up two appointments." He adds, "I am sensible of your partiality to me, but I must know the state of my own understanding and my own inclination better than any other man; and as to presiding in any court in Westminster Hall, it would be insupportable to me. Under these circumstances, what can I do better than exchange an office, from which I can save nothing for my family, for one which will let me into a kind of life I like, and into a saving for my children; and though I had rather be out of the House of Commons, if that must be tacked to it, I will submit." But the report was not founded, and though Mr. Noel was soon afterwards appointed one of the Justices of the Court of Common Pleas, yet he retained his other office of Chief Justice of Chester.

The Great Seal continued about a year in commission, when it was delivered to the Attorney General, sir Robert Henley, with the title of lord-keeper.

Sir Eardley returned of course to the Court of King's Bench, where he continued about nine years longer, as one of the puisne judges. The King's Bench was at this time filled with men of distinguished talents. Lord Mansfield's high character is too well known to require any description or eulogy in this place. He united the

peculiar excellencies of Scævola and Crassus, "Disertorum juris-peritissimus, Jurisperitorum disertissimus fuit."

Mr. justice Dennison, beside being conversant with the different branches of his profession, was, in an eminent degree, master of the learning of a Special pleader; and sir Michael Foster was conspicuous, not only for his profound knowledge of criminal law, but for every quality of an upright, enlightened, and sagacious Magistrate.

It is no small honour to sir Eardley to have sat a worthy colleague with these three eminent Lawyers and Magistrates for so long a period. Though the part he took was not a very conspicuous one, from his situation on the Bench and from his native modesty, yet his Brethren, and those who were acquainted with Westminster Hall during that period, bore testimony, that his active mind was always engaged, either in or out of Court, in elucidating some obscure point, in nicely weighing questions of the greatest difficulty, and in contributing his share towards expediting and deciding the important Suits then under discussion; nor was he less eminent in that important branch of his Judicial Office, the Administration of the Criminal Justice of the Kingdom, both in the Supreme Court of Criminal Jurisdiction, in which he sat, and on the Circuits, that admirable Institution of our ancestors, the peculiar and almost exclusive enjoyment of

this happy Empire. At the same time, whilst his pervading mind suffered few Crimes to escape detection and punishment, his humanity and compassion were often put to the severest trials.

The following, though an imperfect sketch, taken from a periodical publication, may serve to give some idea of his feelings, and of the solemn and affecting manner in which he pronounced the dreadful sentence of the Law on those awful occasions.

Heads of the sentence given by Mr. Justice Wilmot, on eighteen malefactors, convicted of various crimes at Exeter, in March 1758.

"FELLOW CREATURES!

"You all now stand before me, convicted of crimes for which our Laws deem you guilty of Death! You have been publickly tried by God and your Country; and your Country has found you guilty of the crimes of which you were severally accused, the Laws deeming you unfit members of society, unworthy to live any longer upon the earth. Pity therefore now draws a tear of Compassion from *me*, of the same original dust as yourselves, to look upon you all as having immortal souls which will never die, but will survive and live, either in happiness or misery.

"And now I most earnestly desire you will observe, that the powers of Darkness, during the

short time you have to live, may endeavour to deceive you, by suggesting that there is no great day of reckoning; that your souls will sink into corruption, and that after death you will be no more. But let me beseech you, be not so deceived; for be assured, (and I have the authority of the Holy Scriptures to tell you) that your souls are immortal, and will never die; but after their departure hence, they will be assembled in the presence of Almighty God, and from him receive suitable rewards and punishments; and as Death finds you, Eternity will receive you——for know ye, that there is no repentance in the Grave!

"May you be convinced now, that on a sincere repentance you may receive remission of your sins and full pardon, through the merits of our merciful Saviour and Redeemer! For although you are now bound in chains, and stand trembling before *Me*, an earthly Judge, despair not —you may all have a claim yet to that Crown of Glory "which fadeth not away;" for though you are now criminal prisoners, yet you may all, by sincere contrition, and humble repentance, hope to be forgiven. Christ died for *you*, as well as for the rest of mankind; and all the ends of the world, in some respect or other, have seen his salvation.

"Remember, I beseech you, that Death and Eternity now stare you in the face!—bid you prepare for your departure, and make use of the

means of grace still left, before it is too late "to work out your salvation with fear and trembling." Your time is now but short: consider therefore, I entreat you, that eternity and a day of reckoning will soon follow.

"I, on my part, will earnestly address my petitions to Almighty God in your behalf, that when you shall appear at the resurrection before his great and eternal tribunal, you may be pardoned and accepted by him through the mediation of his ever-blessed Son!

"And now, with a sorrowing and aching heart, I am obliged to pronounce on you the last tremendous sentence of the Law, which is,

That, &c.

And may the Lord Jesus have mercy on your immortal souls!"

Among many other parts of this laborious profession, to which sir Eardley had given unremitted attention, is that of taking Notes, and to which he had invariably accustomed himself both before and after he was called to the Bar; nor had he confined himself to any one Court, for having only a moderate share of business in London, he was in general able to attend any of the courts, where there were Causes of the greatest expectation. These Notes were transcribed by his clerk, and he thus by degrees became possessed of many volumes of manuscript Notes, both in Law and

critically, and give me your opinion of them without reserve.

" Lord Mansfield doubts of some parts, though he approves of the conduct of the whole. Bath begins to freeze, and the rooms to be deserted. Tuesday carried off the flower of the place. They are gone like humming-birds, all upon the wing to bask and flutter in the sun; imagination may be allowed to follow them, some with aching hearts, others teeming with hope. For my part I have no ambition or lucrative views; leave me where you found me, is all I hope for.

" Possibly the Judges may be consulted on a point of Law in which we are all concerned. I cannot say but that I have turned the matter over in my thoughts, and have made a few Collections which I cannot now come at. Lord Mansfield knows my opinion; I cannot conceal it from you. I think the last Precedent was a precipitate proceeding, against the plain scope and intent of the Act of Settlement, and derogatory to the honour, dignity, and constitutional independence of the Judges, and of the Crown itself. All former Precedents I put out of the Case. I found myself singly on the Act of Settlement and the reason of things. My present resolution is, to be reserved upon the subject; if ever it come judicially before me, and I hear what learned Council say on either side, I hope I shall be able to

form an opinion founded on Law, and consistent with the honour and dignity of the Crown. * *.

"Your affectionate Brother,

"M. FOSTER."

"Nov. 29, 1760.

"What do the gods of this world, the little part of it we call our Country, do with the Judges? When are their Commissions to be renewed? Are they to be renewed in the form of the Commissions of the last Reign, or in some other form more consistent with the scope and plain intent of the Act of Settlement? Are they to be in fact, "quam diu se bene gesserint," or so only upon parchment?

"M. F."

"London, March 16th, 1761.

"They talk here of some changes. Lord Bute to be secretary of state. Lord Holdernesse to be provided for another away, &c. &c. But changes of this kind do at present very little affect me. I am but a passenger in the ship; and if she be steered safely into Port, I don't care who has the credit of it.

"I suppose our Bill goes on as it should; it has been read twice and Committed, and is ordered to be Engrossed. I knocked yesterday at * * * and * * * doors, but nobody at home. Our friend is too much embarrassed at this time;

I saw him, and had a little discourse with him in the House the day the King came last thither. I was not, at first sight, sure that I knew him; the pensive spot sits heavy on his brow, and the lustre of his eye is much tarnished. God deliver me and all my friends, from that sort of Ambition, which sets a value on any thing which ministerial connections can give or take away!

"Your affectionate, &c.

"M. Foster.

"P.S. Before I sealed my letter, the lord chief baron called on me. He says that the master of the Rolls, in the Committee, moved that the Bill might not pass as it was brought in, "Enacting," that the Judges Commissions should not determine, &c.; but, "Declaring," &c. He spoke a great deal upon the subject, with some reflections upon the memory of the chief justice Holt; and said that one of the present Judges, not naming him, of whom he spoke many kind things, concurred in opinion with himself. He was not supported by any member, and was answered by the attorney and solicitor, not without some degree of asperity, especially from the latter.

"Lord Hardwicke tells the chief baron, that if the Bill had been sent up as a "Declaratory Act," the Lords would have rejected it.

"M. F."

"Bath, May 16th, 1761.

"I brought hither a parcel of Books which I have hardly opened. Watering and airing take up near the whole morning: I scribble a little upon memory, but my friends may be assured that I do not overdo it.

"My Papers upon Homicide were finished and transcribed before I left the Town. But I shall weave into them a few hints of what I take to have been the true scope and intent of the Statute of Gloucester, which has puzzled wiser heads than mine. If I am mistaken, I cannot say, "erro cum patribus;" for I have, with my eyes open, left them to answer for themselves. I shall likewise touch very shortly upon the Recompense in the case of Homicide, to which the Family of the deceased was entitled, and to which the Crown was entitled for the loss of a subject. But as this is in a manner an untrodden path, I shall pick my way with fear and caution, and get out of it as soon as I can.

* * * * "M. Foster,"

"28th June, 1761.

"* * * I herewith return the Papers, which I have read with much pleasure. They contain a complete system of Law upon the subject, and I see no objection to any part of it.

* * * "J. E. Wilmot."

Sir Eardley lived in the greatest cordiality with his Coadjutors, who so frequently conferred with him, and with one another, on the business that came before them, that they seldom failed of being unanimous in their ultimate decision, as appears from the Reports of sir James Burrow[n]. Thus did they mutually labour in the cause of truth and justice, while they were rescuing the profession of the law, as far as they could, from the imputation of doubt and uncertainty. Unanimity, indeed, ought not to be purchased at the

[n] Sir James Burrow says, in his 4th vol. page 2582, "It is remarkable that, excepting this case (namely, Perrin and Blake) and another, there never has been, from the 6th of November 1756, to the time of the present publication, viz. May 1776, a *final* difference of opinion in the court in any case, or upon any point whatever. It is remarkable too, that, excepting these two cases, no judgment given during the same period has been reversed, either in the exchequer chamber, or in parliament." One of these cases respected the granting of writs of habeas corpus in 1757 to men impressed under the Act of 29th Geo. II. c. 4. This was afterwards discussed in the House of Lords: vide "Judgments and Opinions of Lord Chief Justice Wilmot," p. 77 and 81.

It has since been attempted to controvert this position of sir James Burrow, and to shew that sir M. Foster differed in opinion with his brethren on the bench in other cases than those mentioned. But it may be observed, that sir James does not assert that there were no other differences of opinion between the judges of this court, at the commencement, or in the progress, of the various suits which came before them during this period: His assertion is confined to their "final difference of opinion in court."

expence of sincerity; but as there is no doubt of the integrity or abilities of any of these learned men, it must be acknowledged to have been a very happy circumstance, that during the whole time they sat together, there was so little difference of opinion on the important questions that came before them; important frequently to the public, and always important either to the property, the reputation, the persons, and sometimes to the lives of individuals. In the multitude of particulars, concerning which the administration of Justice is conversant; in an ancient Monarchy, like that of Great Britain, and in such an extensive Empire, both with respect to territory and commerce, it requires not only the greatest abilities, but the most indefatigable attention, to apply principles and reconcile precedents, which, in the accumulation of ages, may appear, at first sight, contradictory to each other. This requires great industry and perseverance, as well as great parts and learning; and it was probably to an union of these qualities, that this agreement of opinion was principally owing. At the same time it must be acknowledged, that such is the diversity of cases and of circumstances, to which laws may be applied, that a difference of opinion may, as it sometimes does, arise between the wisest and ablest men, without any impeachment of their integrity, their abilities, or their industry.

His intimacy with lord Mansfield continued

many years after sir Eardley quitted that court; and there were few questions of magnitude agitated in the court of King's Bench, on which that noble lord did not confer with sir Eardley Wilmot. With sir Michael Foster the most cordial friendship subsisted till his death in the winter of 1763, aged 74, when sir Michael bequeathed him three volumes of Prynne's works, in the following words: "To my honoured Friend and Bro-"ther Mr. justice Wilmot, Prynne's Records, "three Volumes, and his Parliamentary Writs; "which I desire he will accept, as a mark of the "sincere esteem I have for a Gentleman of his "merit."

In December 1763, sir M. Foster was succeeded by sir Joseph Yates, a man universally esteemed for his abilities, integrity, and learning. With him sir Eardley soon became united in the bands of indissoluble friendship, their attachment to each other increasing every year with their more intimate acquaintance.

In autumn 1765 died sir Thomas Dennison, on whom lord Mansfield conferred the singular honour of writing his Epitaph, which is believed to be the only work of the kind that came from his hand[o].

[o] This appears from a note of the noble lord. The epitaph is as follows, in Harewood church in the county of York, near the tomb of Sir William Gascoigne, Chief Justice in the reign of Henry IV.

Thus, though various had been, in this interval, the revolutions of Party in the State, and many the changes occasioned by the Accession of a new Monarch to the Crown of Great Britain, the persons who administered Justice in this court, on sir Eardley's elevation to the Bench in 1755, continued, with little variation, for several years.

" To the Memory
Of sir Thomas Dennison, Knight,
This Monument was erected
By his afflicted Widow.
He was an affectionate Husband,
A sincere Friend, a good Citizen,
An honest Man.

Skilled in all the learning of the Common Law,
He raised himself to great eminence in his Profession,
And shewed by his Practice,
That a thorough knowledge of legal art and form
Is not litigious, or an instrument of chicane,
But the plainest, easiest, and shortest way
To the end of strife.

For the sake of the public he was pressed,
And at last prevailed upon, to accept the office of Judge
In the Court of King's Bench.
He discharged the important trusts of that high office
With unsuspected integrity and uncommon ability.
The clearness of his understanding,
And the natural probity of his heart,
Led him immediately to Truth, Equity, and Justice;
The precision and extent of his legal knowledge
Enabled him always to find the right way
Of doing what was right.

One of the greatest advantages, which the courts of Law have over the court of Chancery, is, that they are not affected by Changes in the Administration of public affairs. It may be very proper that one great Law-Officer should have a seat in the Cabinet, and be always at hand, to advise his Majesty's Ministers on important subjects of Law and the Constitution; but it is very fortunate that this is not the case with the vene-

A zealous friend to the Constitution of his Country,
He steadily adhered to the fundamental principles
Upon which it is built,
And by which alone it can be maintained,
A religious application of the inflexible rule of Law
To all questions concerning the power of the Crown,
And the privileges of the Subject.
He resigned his office, Feb. 14, 1765,
Because, from the decay of his health,
And loss of his sight,
He found himself unable any longer
To execute it.
He died Sept. 8, 1765, without issue,
In the 67th year of his age.
He wished to be buried in his native country,
And in this church.
He lies here,
Near the Lord Chief Justice Gascoigne,
Who, by a resolute
And judicious exertion of his authority,
Supported Law and Government in a manner
Which has perpetuated his name, and made him
An Example famous to Posterity."

rable Magistrates, who preside in our other courts of Justice: they are thus kept free from the imputation of political bias, and have also more leisure for the laborious duties of their Station. This was frequently an observation of sir Eardley's, and no small consolation to him, both whilst he continued in the King's Bench, and when he afterwards presided in another court. But, though he persevered unremittingly in the discharge of his duty, it was not without a frequent sigh for a more quiet and retired station than that of the court of King's Bench. In 1765, a serious treaty was set on foot by him to exchange that honourable office for one, not less honourable indeed, but undoubtedly at that time less lucrative and less conspicuous, that of Chief Justice of Chester, which was then held by Mr. Morton; but the treaty was at length broken off [p].

[p] Extract from Mr. Morton's letter to him, on his promotion to the chief justiceship of the Common Pleas in 1766.

"Flint, 22d August 1766.

"My Lord,

"Last Post gives me, I hope, authentic ground to address you as above, and to make you my most sincere congratulations on your promotion to the Chief Seat of the Common Pleas.—If I was not unwilling to stagger you in your first Judgment, I would certainly lay in my claim for half of your present Office. I have at least the same pretensions which Cibber set up to the Translation of the Iliad.

"Had I indulged your offer of an exchange for my present station, what would have been your lot? Hearing a Welch

Among other instances of sir Eardley's unintermitting desire of retiring from Public Life even sooner than he did, is an Epitaph inserted by him in the blank leaf of a folio Greek Testament, which he always made use of in the church of Osmaston near Derby, where he generally passed the summer vacation, and which must have been previous to 1765. After mentioning the particulars of his birth, &c. he says,

"Upon the 11th day of February 1755,
He was appointed one of His Majesty's Justices of the Court of
King's Bench,
And on the 11th day of February 1765
He resigned that Office,
And retired to this place,
Where he died,
In the year .... aged ..
In thy Orisons be all his sins remembered!"

In January 1765 began the great contest between Great Britain and the American colonies,

Action for words, not more honourably attended than the first figure of a Puppet Shew; or in your happier hours, viewing a muddy tide coming in at Flint. From this picture, your lordship need not look for the Venue of this Address, nor have any doubts of my veracity, when I assure you, that I have not been so well pleased these three weeks, as in having this occasion of assuring you how sincerely I am,

"My Lord,

"Your most, &c. &c.

"JOHN MORTON."

concerning the right of taxing them. The Americans resisted the exercise of this right in the instance of the Stamp Act; this gave rise to the discussion of the question in the British Parliament, where there was a wide difference of opinion between the great Statesmen, Orators, and Lawyers of both Houses. Though this subject, as applicable to America, is now rather matter of curiosity than of use, yet a Paper being found in sir Eardley's hand-writing, upon it, which appears to treat it as an abstract question of Government, the principle of which may be applied to other questions of importance, it is thought proper to insert it in the Appendix[q].

When lord Camden, who had been Chief Justice of the Common Pleas about four years, was appointed lord chancellor in the Summer of 1766, sir Eardley had the offer of the Chief Justiceship of that Court. He had an intimation of it when on the Western Circuit, from his brother sir Robert Wilmot, at that time Secretary to the Lord Chamberlain and to the Lord Lieutenant of Ireland, resident in London, to whom he says, in answer, "Is it not possible for you to divert a measure, which will be so injurious to my peace if accepted, and so much censured if refused?" It is believed, that next to his character for learning and integrity, he was indebted for this offer,

[q] Vide Appendix A.

to the high opinion and esteem of both the old and new chancellor, and also to the friendship of lord Shelburne, appointed at that time one of the Secretaries of State. His lordship, though a much younger man, had ever since his first acquaintance with him, several years before, conceived so great an admiration of his talents, and esteem for his virtues, that he had long lived, and continued to live with him to the end of his life, in habits of the greatest intimacy and friendship.

The following is an Extract from a second Letter on this subject to sir Eardley, from his Brother.

"2d August, 1766.

"The Curtain is now drawn up; the Actors are coming upon the Stage. I understand you have a part, which, though not your own choice, has been assigned to you in so distinguished, so honourable a manner, that you certainly ought, cheerfully, graciously, and gratefully, to accept it. 'Tis a Duty which you owe to the King, to your Friends, to your Family, to yourself; and the Duty required is neither hard nor unprofitable.

"I have seen —— to-day, from whom I find that lord Camden claims the sole merit of your advancement: however, it is not impossible but that lord Shelburne's friendship for you may have had its weight: Lord Northington has likewise probably promoted the measure; and what is

more extraordinary, the two Law Peers have done it under an entire conviction, as * * * says, of your attachment to another Chief * * * * *. Their motive is your eminent abilities in your profession, your extensive knowledge, your acute and deep penetration, your sound judgment, your principles in favour of liberty, your unspotted character, and your being, in every respect, the most fit and proper person for that station. It may have crossed them all, from alpha to omega, that such a choice would give universal satisfaction, not only in Westminster-hall, but throughout the whole kingdom, and thereby add credit and popularity to the new Administration: I shall only observe, that you come in without terms, conditions, stipulations of any kind. It is presumed you will do your duty, (and nothing more is required) and always, when called upon, give your opinion and advice in Council according to the rectitude of what shall be proposed, and not with a certain ministerial warp, which scandalises the Man: Upon the whole, I am clearly of opinion, for many material reasons, that your remove to the Common Pleas will be a fortunate and happy event. You will, at all events, be a permanent pillar, though the new Ministry, as it probably will, topple down; for lord Bath has risen from the dead, and has drawn the thorns out of the feet of every competitor, and has stuck them into those of his friends; and when the ball comes to

be tossed up again, as every body thinks it must, and a new match played, the lame ones must lag behind. One set of men are thoroughly united; another, whom artifice has severed and set at variance, may now, and will, if they be not infatuated, piece again; and the numbers and strength of the new-comers, do not seem sufficient to carry away the ball from both. Lord Northington has secured to himself 4000*l.* a-year for his life, when he ceases to be President. The duke of Grafton hates business, and will soon be weary of the Treasury. Charles Townshend thinks himself injured by having the Chancellorship of the Exchequer crammed down his throat. The duke of Portland, by the advice and at the earnest request of his friends, for the present holds the staff * * *. In short, the City have brought in their Verdict already, "Felo de se" against William earl of Chatham!

* * * Yours, &c."

Sir Eardley received another Letter from his Brother, dated the 6th of August, congratulating him on Sir E.'s appointment, and adding, "that he thinks he will hear from Lord Camden, as he was in the Closet to-day. I am sorry I gave you hopes of a Reprieve, but I thought it right to give you all the information that came to me

* Referring to a former Letter.

on a matter of such consequence; I do assure you, that it never was in my power to forward or prevent the measure. * * Every mortal says how honourable it is for you to have no competitor. The whole Town seems interested and pleased with the event; and the hopes of mankind would be disappointed, if you rejected the public voice. You shall have free scope to write, or talk, or scold, as much as you please to me. Sit but serene in your Chief Seat, and out of it you shall rage like Boreas."

He had likewise written to his relation, the late Henry Wilmot, esq. who had been Secretary to the Great Seal, ever since sir Eardley held it in Commission in 1756, to the same purport that he had before written to his Brother. Mr. Wilmot's answer is, that he had received his Letter of the 3d, and afterwards dined with the Chancellor, "but I did not shew it him; I had a greater regard for you than to suppose you preferred 2000*l.* a-year to 3500*l.*, and to go two long Circuits in a year instead of one short one."

A few days after, he received the following Letter from lord Camden.

"5th August, 1766.

"I have the King's Orders to acquaint you with his intention of removing you to the Chief Justiceship of the Common Pleas, if it be agreeable to you. As Mr. Morton is not yet deter-

mined to yield up to you the Chief Justiceship of Chester, I would advise you to repose yourself in the Common Pleas 'till that desired event happens: I assure you it is a place of perfect tranquillity. I do most sincerely congratulate you on this nomination, and beg leave to inform you, that you owe it as much to Lord Northington and to Lord Chatham, as to myself. I have been under a treaty with George Cooke ever since I came to Town, the particulars of which you shall know when you come: It is now suspended till you arrive—I have withstood his bribe, being determined never to defraud my successor upon my death bed: his necessities are extreme as well as my punctilio, and I doubt they can never meet: however, it is now in your hands rather than in mine; for I do not consider myself any longer in Conscience, though I am in Law, Chief Justice of the Common Pleas.

"I am with great truth, &c.

"CAMDEN."

"P. S. Give my best respects to Mr. Justice Yates."

Sir Eardley was at this time on the Western Circuit with sir Joseph Yates, to whom he communicated the purport of the Letter he had received from lord Camden, at the same time expressing his intention to decline the unsolicited honour that was offered him, chiefly on account

of his health, and the desire he had long felt of retiring from public business. Sir Joseph was much surprised and affected with this declaration; and after endeavouring to persuade him to a different conduct, retired to rest, without making any impression on sir Eardley, who read to him the answer he had written to the above purport, and which he intended to send the next morning. Sir Joseph's friendly bosom, however, could take no rest when the interests of his friend and his family were, as he thought, so deeply concerned. He rose very early in the morning, and went to his friend's chamber with another Letter in his hand, which he at last prevailed upon sir Eardley to copy with very little alteration. He accordingly sent the following answer, stating his increasing infirmities, but submitting, with respect and gratitude, to his Majesty's pleasure.

* * * "Bristol, 9th August, 1766.

"Your Lordship may imagine the pride I must feel from so eminent a mark of the Royal favour; but before these gracious intentions are carried into execution, I think it my duty to lay before the King the true state of my health, that his Majesty may judge whether a mind, so allied, is fit for his service in so important an office. I have long apprehended the approach of something paralytic; but doctor Huxham of Plymouth, whom I have lately consulted, conjectures that

my disorder is rather stone in the kidneys. What my real case may be is at present uncertain; but I should become very unhappy indeed, if after so distinguished an instance of his Majesty's favour, my infirmities should render me unequal to the task, and make me an occasion of repentance to the King for the only error in the Appointments he has made.

"Your Lordship's conduct with respect to Mr. * * * is extremely delicate and honourable; and I shall concur in any measure which your lordship approves, that may best accommodate the necessities of his family, without expecting or wishing for the least advantage from it.

"Lord Northington's Resignation gives me the pleasure of congratulating with the public on your lordship's promotion, which redounds so much to the honour of the Crown, and affords such universal satisfaction, &c. &c.

"E. WILMOT."

The Office which sir Eardley was going to decline, though of greater emolument and of higher rank in the profession, was less laborious than that he would have retained; but, without the friendly interposition abovementioned, the very circumstance of its high rank was a sufficient reason with him to decline it, as it would naturally call him forth more into public view, which was what he wished most to avoid.

In the evening of the day sir Eardley kissed hands on being appointed chief justice, one of his sons, a youth of 17, attended him to his bedside. "Now," says he, "my son, I will tell "you a secret worth your knowing and remem- "bering; the elevation I have met with in life, "particularly this last instance of it, has not been "owing to any superior merit or abilities, but to "my humility; to my not having set up myself "above others, and to an uniform endeavour to "pass through life, void of offence towards God "and man."

Congratulatory letters are generally the effusions of the moment, and are seldom worth preserving: the following to sir Eardley are selected out of a great many, more on account of the celebrity of the Writers, than the importance of the occasion.

"Dear Sir,

"I have the honour of your letter of the 19th instant, with your acknowledgments for the justice I have done you in my testimony of your merit to our most gracious and amiable Sovereign. It suits yourself to give them to me; it becomes me to tell you, that your learning, capacity, and character made it my Duty, which you politely call friendship. In all other respects,

I can subscribe myself your sincere friend, and most obedient, &c.

"NORTHINGTON."

"24th August 1766,
Grainge."

"Tittenhanger, Aug. 11th, 1766.

"Dear Sir,

"I know not whether you are yet Chief Justice of the Common Pleas in form; but give me leave to congratulate you and the Public on your advancement. The kind and uniform Friendship which you have shewn me, makes me feel a real pleasure on this occasion * * *.

"I have seen * * * * *, to whom I have said some things which he will repeat to you in confidence. The rest I will reserve till I see you either in town or country.

"Dieu vous conserve dans sa sainte garde, et moi dans votre amitié.

"Ever yours, &c.

"C. YORKE."

"Stourhead, Aug. 9th, 1766.

"My Lord,

"I cannot help troubling your lordship with a few lines to express my hearty joy at your being advanced to a station, which will make your virtue and abilities of still more use and benefit to your country. Do me the justice to believe that

none of your friends can more sincerely take part in the satisfaction of the public on this promotion than,

"My dear lord, &c.

"LYTTELTON."

"Wallingford, 26 Aug. 1766.

"My Lord,

"Among the many congratulations you receive upon a promotion which every body is pleased with, even in these times of division, there are none more sincere than those which come from your lordship's acquaintance, who have an opportunity of contemplating your private as well as public character. As your lordship has been pleased to honour me with that advantage, in a degree that has laid infinite obligations upon me, you will believe that it is with real pleasure I felicitate both your Lordship and Westminster-hall, on an event that does honour to them both.

"I am, &c.

"W. BLACKSTONE."

"Prior Park, 13th Sept. 1766.

"My Lord,

"I had long ago given over expecting any good from public changes when the papers informed me of your lordship's promotion.

"Fortune seemed to proceed here as in claims in law—willing to keep up the memory of an

old title, "that which superior merit once had to success." But whether we are indebted for this to one of Fortune's lucid intervals, or to the caprice of one of her favourites, it cannot but give real pleasure to all who love their country; as well to those who have not the honour of your friendship, as to those who have. I, who am without any other pretensions to this honour than a desire to deserve it, have not only a share in this general satisfaction, but all the warm sense of it, which your friends can feel, being, in truth, with the utmost regard and esteem,

"My Lord, &c.

"W. Gloucester."

Nor should the letter of his friend, Sir J. Yates, be omitted.

"Clifton, 30th Aug. 1766.

"My dear Lord Chief Justice,

"I have now the satisfaction of addressing my Friend by the title I so ardently wished him. And blessed as you are with the liveliest feelings of a friendly heart, (one of the greatest blessings that man can enjoy) don't you envy me the joy I feel from this event? I should indeed have been heartily chagrined if you had missed it; and, had the fault been your own, should have thought you exceedingly blameable. My casuistry would then have been staggered indeed, and would have found it a difficult point to excuse you. But now

it is quite at peace, and entirely satisfied. You do me great honour in rating it so high, and I am sure you speak from the heart. It is the privilege of Friendship to commend, without the least suspicion of compliment; and I shall ever receive any approbation of *Yours* with superior satisfaction. But no man breathing can have a surer guide or a higher sanction for his conduct, than my Friend's own excellent heart. Of this the very scruple you raised would alone have convinced me, if I had no other proofs. I have not the least doubt but you will find your new seat as easy as you can wish, and *all* your coadjutors perfectly satisfied. There is but one of them that could entertain any thoughts of the same place for himself; and as he knows, that in the present arrangement he had not the least chance of it, I dare say he will be pleased to see it so filled. And as to the rest of the Profession, I can affirm with confidence, (for you know I have but lately left the Bar, where I had a general acquaintance with the sentiments of the Hall) that *no* man's promotion would have given so universal a satisfaction as yours. I repeat this to you because it must certainly give you pleasure. Success is never more pleasing than when it is gained with honour, and attended with a general good-will. It will rejoice me highly to shake your hand before I go Northwards; and if I knew what day you would be at Bath, I would give you

the meeting there. I long to hear a particular detail of every thing that has passed. * * *

"Your most affectionate Friend, &c.

"J. YATES."

Thus was sir Eardley called upon to preside in a Court, where he had many seniors on the bench. The appointment gave general satisfaction; and his acknowledged abilities, his unaffected modesty and courtesy, soon made him as much esteemed and beloved in his new court, as he had before been in his old one. He had this peculiar good fortune, or rather peculiar merit, that with whomsoever he was connected in public or private life, he not only lived on terms of civility and respect, but of cordiality and friendship; so that he was equally admired for his abilities, esteemed for his integrity, and beloved for his social virtues. Perhaps the being totally void of ambition himself, might peculiarly fit him to be the common friend of those who were sensible of his disinterestedness, and with whom therefore he could have no competition. This may in some degree account for his living in habits of friendship with persons very opposite in their political principles, with lord Mansfield and lord Shelburne, with Mr. Yorke and Mr. Pratt. Beside these, and others already mentioned, he numbered lord Lyttelton (who frequently consulted him on the legal part of his history of Henry II.) lord Huntingdon, lord

Hardwicke, lords Guilford and Dartmouth, Ryder, archbishop of Tuam, (to the three last of whom he had the honour of being allied) sir T. Parker, the venerable sir Edward Wilmot[s], Mr. baron Adams, Mr. Harris of Salisbury, Mr. D. Barrington, Mr. Wilbraham[t], Mr. Forrester, and many others,

[s] Grandfather of the present sir Robert Wilmot of Chaddesden near Derby, baronet. He was physician to the late king, and to the prince of Wales, father of our present beloved Sovereign.

He retired from business on the accession of his present Majesty. After having resided some years at Nottingham, and having, at the age of seventy-seven, found that climate rather too cold for his years and constitution, he went, as he said, to spend the remainder of his days with his daughter-in-law, Mrs. Williams, at Heringstone near Dorchester: he corresponded with the writer of these sheets, with all the vigour and sprightliness of youth, till within a few months of his death in 1786, at the age of ninety-three. He was in great practice in the reign of George II. He retired in 1760, at the age of sixty-seven, and survived twenty-six years. Dr. Heberden says of him in his "Commentaries on the history and cure of Diseases," a posthumous work published in 1802, p. 379: "That very ingenious and learned physician, sir Edward Wilmot, who, as he told me, when he was a youth was so far gone in a consumption, that the celebrated Dr. Radcliffe, whom he consulted, gave his friends no hopes of his recovery: yet he lived to be above ninety years old;" and Dr. Heberden says this has been the case with some others who had many symptoms of consumption in their youth.

[t] He says, in a letter to one of his sons, 25th Feb. 1771, "I have lost my old friend, Mr. Wilbraham; he died in his 77th year, and has not left a better lawyer, or an honester man, behind him."

distinguished either for their abilities, learning, or virtues, amongst his intimate friends and warm admirers. These were friendships contracted chiefly in the meridian of his life: With Mr. Legge and Mr. Yorke[u] he had lived in habits of the greatest intimacy from an early period of it, nor did it end but with their lives.

In 1768, bishop Warburton founded a lectureship on Prophecy, and requested sir Eardley to be one of the first Trustees, in the following letter:

"Prior Park, March 9, 1768.

"My good Lord,

"I am about fixing in my life-time a small Theological Lecture at Lincoln's Inn; and that Society not being incorporated, I have a good pretence to put it into the hands of Trustees[v], who are to chuse their successors. I shall be glad to be honoured with the names of lord Mansfield, yourself, and Mr. Yorke, as those of my own appointment, and have applied to them for this leave, as I now do to your Lordship; I

[u] In an elegant edition of Cicero is the following inscription, in sir Eardley's hand writing:

"The Gift of the Honourable Charles Yorke,"

"Quem tu, dea, tempore in omni

"Omnibus ornatum voluisti excellere rebus."

[v] Bishop Hurd says in his life of Bishop Warburton, "He was anxious to have this important Trust in the best hands."

presume that one or both of them may have acquainted you with my project, and, on that presumption, will conclude that I have the honour to be, with the highest regard and attachment,

" Your Lordship's most faithful, &c.

" W. GLOUCESTER."

His intimacy with this learned divine encreased much after this period; and in 1769, sir Eardley requested his assistance and advice on the occasion of one of his sons preparing himself for the Church, which the Bishop complied with, by sending him the " first" part of some Directions for the study of Theology, accompanied with the following letter.

" March 1770.

" My good Lord,

" The enclosed aims at doing some little pleasure to your son, who, I trust, will hereafter prove one of the greatest ornaments of his profession.

" But it was but fit, that your Lordship, who is so much interested in his welfare, and is so excellent a judge in all that relates to literature, should first see it, that it may undergo your correction and amendment.

" I have the honour, &c.

" W. GLOUCESTER."

Circumstances afterwards induced his son to go into the profession of the Law; on which sir Eardley, in the year 1771, made the following indorsement on the Bishop's paper.

" These directions were given me by Dr. War-
" burton, bishop of Gloucester, for the use of my
" son, when he purposed to go into Orders; but,
" in the year 1771, he unfortunately preferred
" the Bar to the Pulpit, and, instead of lying
" upon a bed of roses, ambitioned a crown of
" thorns."

" Digne puer meliore flammâ!"

This is mentioned chiefly to shew how uniform sir Eardley was, from his earliest youth, in his predilection for the Church, a predilection which probably influenced, more or less, every act of his Life.

Some years after the bishop of Gloucester's death, Dr. Hurd, afterwards bishop of Worcester, called upon sir Eardley's son, who delivered to him the MS. in order that it might be inserted in a volume of the bishop's Posthumous Works, since published. It is only to be lamented, that the learned Prelate did not execute the " second" part of this work.

It was about this time, viz. 1769, that sir Eardley presided in the memorable Cause of Mr. Wilkes against lord Halifax and others, a period of great heat and violence, both in parliament

and in the nation; but he was so entirely free from all political bias, that his conduct gave universal satisfaction. It was an Action of Trespass for false imprisonment; Mr. Wilkes having been taken up and confined in the Tower, and his papers seized and taken away, by virtue of a General Warrant[w] from lord Halifax, one of his Majesty's Secretaries of State. The Damages were laid at 20,000*l.*

[w] As the subject of General Warrants was much discussed at the time, though now at rest for ever, it may be proper to insert a copy of it.

GEORGE MONTAGU DUNK, Earl of Halifax, Viscount Sunbury, and Baron Halifax, one of the Lords of his Majesty's most Honourable Privy Council, Lieutenant General of his Majesty's Forces, and Principal Secretary of State, &c.

(L. S.)

THESE are in his Majesty's name to authorize and require you (taking a constable to your assistance) to make strict and diligent search for the authors, printers, and publishers of a seditious and treasonable paper, intitled, the North Briton, Number XLV. Saturday, April 23d, 1763: printed for G. Kearsley, in Ludgate Street, London, and, them or any of them having found, to apprehend and seize, together with their papers, and to bring in safe custody before me to be examined concerning the premises, and further dealt with according to law. In the due execution whereof, all mayors, sheriffs, justices of the peace, constables, and all others his Majesty's officers, civil and military, and loving subjects, whom it may concern, are to be aiding and assisting to you as there shall be occasion. And for so doing this shall be your

The following is the substance of what the learned Judge said in his charge to the Jury.

" The form of the Declaration is for breaking and entering the Plaintiff's dwelling house, breaking open his locks and doors, destroying his cabinets, boxes, &c. taking away his papers and converting them to their own use; for assaulting the Plaintiff, and seizing and imprisoning his person several days in the Tower: but the substantial part of this Action, is for taking his person and papers without legal Authority. Now there can be no doubt whatever, but that the imprisonment of his person and the seizing of his papers was illegal; because there is no doubt but that the Warrant, whereby the Plaintiff was imprisoned and his papers seized, was illegal; it has undergone the consideration of this court, and likewise of the court of King's Bench, and has very properly been deemed so by every Judge who has seen it; and there is no pretence or foundation for the Defendant in this Cause to make any stand against this Action by way of Justification

Warrant. Given at St. James's the Twenty-sixth Day of April 1763, in the Third Year of his Majesty's reign.

DUNK HALIFAX.

To Nathan Carrington, John Money, James Watson, and Rob. Blackmore, four of his Majesty's Messengers in ordinary.

in the way he has done; because it clearly and manifestly is an illegal Warrant, contrary to the Common Law of the Land; and if Warrants of this kind had been found to be legal, I am sure, as one of the Plaintiff's Counsel observed, it is extremely proper for the Legislature of this kingdom to interpose and provide a remedy; because all the private papers of a man, as well as his liberty, would be in the power of a Secretary of State or any of his servants. The Law makes no difference between great and petty Officers. Thank God, they are all amenable to Justice, and the Law will reach them if they step over the boundaries which the Law has prescribed.

"But though this Warrant is illegal, yet it appears from the Evidence, that it was not of the Defendant's own original framing; it was in conformity to many Precedents in the Secretary of State's office from the time of the Revolution."

[The Precedents were then read, about forty in number, and many more were produced: the Evidence was stated, and the Proof referred to, that the Plaintiff had obtained a Verdict of 1000*l.* against Mr. Webb, for the seizure of his Papers. The learned Judge then proceeded.]

"The purpose of bringing this Evidence is to endeavour to take off the imputation of malice, and to shew you, that it was not done without

Precedents; and that, if it was wrong, it was at least a precedented mistake.

"Now, in the first place, it appears most clearly, that the Plaintiff has been taken up unlawfully, has been imprisoned seven days, has had his papers seized, examined, and rifled; that these papers have been likewise improperly and illegally taken notice and made use of; and by the letter that has been read to you, it appears, that such of them only were to be returned, as could not tend to prove the Charge against him. As to the Declaration of breaking locks and doors, these are only formal words; and in assessing the damages, you are not particularly to direct your attention to them; the spirit of the thing is for the unlawful imprisonment of his person seven days, and unlawfully seizing his papers; and there is no doubt but that there has been a plain and gross injury done him, which is likewise a plain and gross violation of the Laws.

"The manner of doing it is also proper to be considered. It has been proved to you, that there was an Order in the Warrant, directing him to be kept "close" prisoner; it appears that it has been usual to insert these words, "close confinement," even for Libels; but the Warrant was accompanied with a verbal Order, given, not by the Defendant, but by lord Egremont, that nobody should be admitted to see the Plaintiff, which is a thing extremely unlawful. It must

be observed, however, that as soon as it was known his friends were not to see him, Mr. Webb endeavoured to rectify it; he got the verbal Orders relaxed, and sent word that the Plaintiff's friends might see him.

"Another thing has been mentioned and insisted on, which is, the change of custody; but I own there does not appear to me the difference which is contended for. When the Plaintiff was taken up, a Habeas Corpus was applied for; but then it was applied for improperly. It does not appear that the Secretary of State knew of it, before the Warrant for sending the Plaintiff to the Tower was prepared and signed: there was some rumour about it, but the Secretaries of State did not know it; and I do not see that any thing has been proved like an intention to oppress the Plaintiff. I never give myself the liberty either to enforce or explain away words, but state them to you precisely as they were used. You are to consider the Evidence, and to judge whether you think the custody was changed by the Secretary of State with an intention to oppress the Plaintiff; if so, it would, undoubtedly, be a great aggravation of the illegal treatment. But, upon my oath, I cannot say I see any intention of ill usage; there does not seem to me to be any aggravation arising out of this matter; on the contrary, Mr. Stanhope, one of the Witnesses, swore, that the Plaintiff said the Defendant behaved like a Noble-

man, and that he should always regard him for it.

"There is another thing I must mention to you—that no prejudices of whatsoever kind should influence you. It is my opinion, that you all come here as unprejudiced and dispassionate to try this Cause as I myself do; and therefore all things said out of doors, all papers and pamphlets, are to be totally laid out of the minds, both of Judge and Jury: they must be deaf, dumb, and blind, to every thing but the Evidence before them; they must divest their minds of every thing that might have a tendency to influence them. Gentlemen, I speak for myself as well as for you: I never read any thing about what may come before me in a court of Justice; I keep my mind free from every thing of the kind. There is often a necessity for me to look into the Law; but I never suffer my mind to be biassed by Reports, or such papers or pamphlets as are written with a view to pervert Justice.

"Much has been said on both sides, which does not particularly apply to this Cause.—But it is the Evidence, and what arises necessarily and immediately from the Evidence, upon which you are to form your Judgment.

"You all very well know what deference I always pay, and ever will, to that part of the office of a Jury which properly belongs to them. In regard to the Law, I have always been as tena-

cious of the proper function of a Judge, as I have been of that of the Jury. I never will, while I have the honour of executing the office of a Judge, attempt to controul or influence their minds in respect of Damages; but only submit to them such observations as occur to me upon the Evidence; and as the gentlemen at the Bar have industriously avoided pointing at any particular Sum you should give, I will as industriously avoid pointing at it too, and leave it for you to determine as you shall think proper. In regard to Facts, you are to take all the circumstances of this Case into your consideration; and when a Special Jury of the first rank in the country appears, there is less necessity for a Judge to descant upon the nature and circumstances of a Cause, than there is to an inferior rank of men, perhaps not so well acquainted with, nor so well qualified to balance, such a Cause as this.

"This Warrant being clearly unlawful, you will consider of the Damages. If the Defendant had set up this Mint, and had first invented and coined this Warrant, it would certainly have been a prodigious aggravation; but you see from the Evidence, that the office has been in the habit and practice of granting these Warrants from before the Revolution to this time: they have been issued in the meridian of this Constitution by its best friends and the greatest lawyers, and have never before undergone any animadversion;

and therefore whatever error this gentleman has been guilty of, he has erred with all the Secretaries of State from that time. There is not the least foundation to presume any evil design in the Defendant against the liberties of the People. The Secretaries of State are not bred to the Law, and it would be an act of injustice to consider a precedented mistake, as a tyrannical, depraved, corrupt act of Oppression; and you find from the Evidence, that they applied, from time to time, to the Lawyers of the Crown; and when some question arose about the Warrant, and a Warrant was proposed with Mr. Wilkes's name in it, it was opposed by the Solicitor of the Treasury, who said, " this is the course of office, it has been " approved of by the Crown Lawyers, and I can- " not consent to any innovation."

" But however this Proceeding might be in the course of office, and however precedented, it was certainly illegal; you must therefore find a Verdict for the Plaintiff, and give him such damages as under the circumstances of this Case you are of opinion he is entitled to. I will go further, and say, that you are not to confine yourselves strictly to the imprisonment of seven days, and the mere seizing of his papers; but you should give " liberal" damages: By " liberal," I do not mean " excessive." " Excessus in Jure reprobatur:" The Law always condemns excess; it must be within the rules of Reason: the Circum-

stances of the Case are to govern it, and as nearly as you can, you will give that Satisfaction and Compensation, which may bear a proper proportion to the Injury and to the nature of the Injury received, under all its circumstances *."

This account is chiefly taken from the Publications of the day, and probably contains only an imperfect sketch of the learned Judge's Address on this occasion. The Jury brought in a Verdict for the Plaintiff, damages 4000*l.*

Beside the ordinary, but important business of the Court of Common Pleas, it falls to the Chief Justice of that court (as the Chief Justice of the King's Bench is generally a Peer), if he is not a Peer himself, to give the Opinion of the Judges in Appeals to the House of Lords from the court of Chancery or Writs of Error from the court of King's Bench, and the Exchequer Chamber. He is also frequently called upon by the Lord Chancellor to assist him in his court, in Cases of difficulty or importance. Sir Eardley's presence was likewise often required at the Privy Council, of which he had been a member ever since his appointment to the Common Pleas, either to give his advice in cases of emergency, or to assist in hearing Appeals to his Majesty in Council, which, before the separation of America from Great Bri-

* Vide that excellent repository the "Gentleman's Magazine" for 1769, vol. xxxix. p. 556.

tain, were very frequent. These various occupations so entirely engaged his time and his mind at this period, that there was very little leisure for writing out his Notes, or preparing a correct copy of his Judgments, especially as he never had the least intention of making them public. There are therefore at this time few Judgments under his own hand; which is much to be regretted, as this undoubtedly was the period of his life, in which his abilities were most exerted and most acknowledged: But though there are comparatively few written out by himself, yet there are many published in the Law Reports of this period, particularly in those of sir James Burrow and Mr. serjeant Wilson.

Beside the above Reports, a few of these Opinions and Judgments, either written in sir Eardley's own hand, or copied fair and corrected by himself, were published a few years ago, most of them being on particular and important branches of the Law[x]. As some of these Cases are of general importance and utility, it may not be improper to notice two or three of them in this place.

Whilst the Great Seal was in commission on the resignation of Lord Hardwicke in 1756,

[x] They were published in 1802, by Cadell and Davies in the Strand, and are now sold by Butterworth, Fleet Street, under the title of "Opinions and Judgments of sir J. Eardley Wilmot."

an important question arose under the will of sir Ed. Mansell, bart., which affected a large property[y]. It depended on the execution of certain powers given to Trustees in sir Ed. Mansell's will; in this case the whole doctrine of powers was discussed, a very important and intricate branch of the Law.

Another was a Case of Fraud and Imposition[z] in a confidential servant taking advantage of the imbecility of an infirm master, aided by an attorney in the neighbourhood where he lived, disclosing a scene of villainy, which the Court was very glad to expose and to redress.

In this opinion sir Eardley draws the line between the power which the Law gives every man over his own property, and an immoderate gift founded on imposition and undue influence, and points out the indubitable marks of it. The duty of attornies is clearly marked out; and what transactions the Court of Chancery will not suffer between an attorney and his client.

Sir Eardley says, among other things on this subject: "Attornies, by being entrusted with "their clients' secrets, must always have a great "influence and ascendancy over them; they are "the great money-borrowers now over all the na-"tion. The wants, the pressures, and the keen-

[y] Mansell against Vaughan, H. 1757, vide "Opinions," &c. page 36.

[z] Bridgman against Green, T. 1757; ibid. p. 58.

" ness of men's passions to get money, for the grati-
" fication of their vices or their follies, would make
" them give any thing to expedite or accelerate a
" Loan. Men are really not free agents under
" such circumstances; they are as much, or more,
" under the influence of their attorney in nego-
" tiating a Loan, as in the prosecution or defence
" of a Suit; and the reason of the decree in
" Walmsley and Booth applies strongly to the
" present Case. I have no doubt, nay I know,
" there are many attornies who would have died
" before they would have acted such a part as
" Lock has done in this affair. If there are any
" who forget that they are Ministers of Justice,
" and not only stand by and see their clients
" robbed by footmen, but are themselves acces-
" sary to the robbery, and divide the plunder,
" this Decree will inform them they shall not do
" it with impunity. It is their duty to avert the
" blow which fraud and imposition aim at their
" clients. This Court has frequently made them
" answerable for gross laches and negligence in
" placing out their clients' money upon sham or
" insufficient securities; but where, instead of
" averting the blow, a man's own attorney directs
" and guides the hand that strikes it, this Court
" cannot but express the greatest resentment and
" indignation at such a behaviour."

Beside the ordinary and daily business of the respective Courts in which the Judges sit, they

are frequently called upon to give their Opinions in the House of Lords, in the Exchequer Chamber, and in other Tribunals.

It was on one of these occasions that sir Eardley, together with the other Judges, was called upon[a] in the House of Lords, to give his opinion on the following important question, on which they differed in opinion, and, as is usual on such occasions, delivered their opinions *seriatim*.

Whether a Woman married under twenty-one years of age, having before such marriage a Jointure made to her in bar of Dower, is thereby bound and barred of Dower, within the statute of 27 Henry VIII.[b]

Sir Eardley went into a great deal of learning on this subject, which was a point not yet settled, and concerning which there was great difference of opinion among the most eminent Lawyers. It was finally settled, however, on this occasion; and an eminent Conveyancer, who was present in the House of Lords, assured the Editor of these sheets, that Lord Hardwicke, who was one of the greatest lawyers that ever sat in Westminster Hall, paid a compliment to sir Eardley on

[a] See "Opinions," &c. page 177.

[b] Earl of Buckinghamshire against Drury. See "Opinions," page 177.

the manner in which he had treated and exhausted every thing that could be said on the subject.

In 1762, a great question was agitated in the city of London, originating in the Sheriff's Court, and finally determined in the House of Lords.

Whether a large fine of 400*l.*, imposed by a by-law of the Corporation of London in 1748, was leviable upon a Dissenter, who, being elected to serve the office of Sheriff, refused to serve, and who was incapable of so doing; it having been enacted by the Corporation Act of the 13 Car. II., that no person should be elected into any Corporation Office, who had not taken the Sacrament in the Church of England within a year preceding the time of his election? [c]

Judgment had been given in favour of the City in the Sheriff's Court and Court of Hustings. It came, by Writ of Error, before the Judges' Delegates in the Court of St. Martin's, viz. Lord C. Baron Parker, Mr. justice Forster, Mr. justice Bathurst, and Mr. justice Wilmot, who were unanimous in reversing the judgments of the City Courts, and which Judgment of Reversal was afterwards affirmed in the House of Lords.

The Opinion of Mr. J. Forster, as one of the Judges' Delegates, and of Lord Mansfield, are

[c] Evans and Harrison, July, 1762. See Opinions, p. 130.

already in print; and the very luminous and elaborate one of Mr. justice Wilmot is, in these "Judgments," for the first time printed.

After descanting at large both on the Corporation Act of the 13th of Car. II., and on the Toleration Act, 1 William and Mary, sir Eardley says: "The intention of the Legislature was most "certainly to secure and appropriate all the power "which Corporation Offices give, to persons who, "at least outwardly, professed the religion of the "State. That was the sole end, object, and aim "of this clause in the Act of Parliament; it was "a Bill of exclusion from Power; it did not look "after or provide for the consequences of that "exclusion.

"Whether those consequences would prove "beneficial or detrimental to them, or whether, "upon the balance of the account, they would "prove gainers or losers by the exclusion, was "not the point which the Legislature had in view; "their point only was, that persons who were not "of the religion of the State, should not be en-"trusted with offices under the State: 'Nolumus "'res sic administrari.' The consequence aris-"ing from this Law, was the exclusion of Non-"conformists from Power, which is Punishment: "but Punishment was not the end of the Law; it "was a consequence of it; and in the exposition "of a Law, great care must be taken not to mis-

" take the consequence of a Law for the end
" of it.

" To attain the end of a Law, it is the duty of
" Judges to make an enlarged and liberal exposi-
" tion of it, and to hold all cases that are within
" the reason, to be within the reach of it; and
" therefore to appropriate all Corporation Offices
" to the members of the established Church, and
" exclude Non-conformists, Judges ought to ex-
" pound the Law with the same spirit which in-
" fluenced the Legislature in making it.

" But that is not to be considered, or construed
" as a vindictive Law, for any purpose whatso-
" ever, which is not necessary to the attainment
" of its own end; and if this Law were to be
" construed in such a manner as, besides the loss
" of Power, which is the necessary consequence
" of the Law, it should also expose them to a
" penalty for having lost it, it would be confound-
" ing the end of the Law with the consequence,
" and making it operate as a vindictive Law for
" transgression; whereas it was intended as a Law
" to direct by whom the Powers of Government
" should be administered in Corporations, and
" as a Palladium to the Constitution in Church
" and State.

" Whether this Case did occur to the Legisla-
" ture, or how they would have thought it ought
" to be determined, is a matter of mere conjec-
" ture.

"The Act itself throws no light upon it: it "does not fall within the line of view which the "eye of the Legislature was then upon; differ- "ent men may, very plausibly, make different "conjectures as to the will of the Legislature "upon this question; but arbitrary conjecture "ought never to be the basis of Judicial Deter- "minations. It would be removing the great "boundary between Judicial and Legislative "Authority.

* * * * * *

"If it be thought just and reasonable that "this class of men should pay 400*l.* a-piece, for "not executing Offices which they are forbidden "to accept, the Law must be altered by the Le- "gislature; for as the Law now stands, I am "clearly of opinion they are not obliged to pay "it, and that the Judgment in this Case ought "to be *Reversed.*"

There is one Opinion printed with these Cases, as explained in a note to the Case, which was not delivered in Court, the Prosecution having been dropped, in consequence of the resignation of the then Attorney-General, sir Fletcher Norton.

It was, on a Rule to shew Cause why an Attachment should not issue against Mr. Almon, for printing a libel upon the Court of King's Bench, and upon Lord Mansfield, the Chief Justice of it.

As this matter had been argued by the Attorney-General and Mr. de Grey, the Solicitor-General, on one side, and by Mr. Serjeant Glyn and Mr. Dunning on the other, and this Opinion was prepared for delivery, copied fair and corrected with the Judge's own hand, it was thought to contain so much legal knowledge, as to be worthy of being preserved, though, from the circumstance above mentioned, the prosecution was dropped before it came to an Issue.

In this Opinion, after going through the particular circumstances of this Case, sir Eardley, who was then the senior Judge, Lord Mansfield not having attended, enters at large into the power which the Courts in Westminster Hall have of vindicating their own authority, which he says, "is coeval with their first foundation and institu-"tion; and that the issuing of Attachment by "the supreme Court of Justice, stands upon the "same immemorial usage as supports the whole "fabrick of the Common Law. It cannot be said "to invade the Common Law, but to act in an "alliance and friendly conjunction with every "other provision which the wisdom of our an-"cestors has established for the general good of "society."

One objection having been that Attachments ought not to be extended to libels of this nature, because Judges would be determining in their own cause, and that it is more proper for a Jury

to determine, " quo animo" such libels were published: Sir Eardley says, " As to leaving such " Libels to be prosecuted by Indictment, or In- " formation, that Juries may judge, " quo ani- " mo" they were written or published, I am as " great a friend to Trials of Facts by a Jury, " and would step as far to support them as any " Judge who ever did, or does now sit in West- " minster Hall; but if to deter men from offer- " ing any indignities to Courts of Justice, and to " preserve their lustre and dignity, it is a part of " the legal system of justice in this kingdom, that " the Court should call upon the delinquents to " answer for such indignities, in a summary man- " ner by Attachment, we are as much bound to " execute this part of the system as any other; " for we must take the whole system together, " and consider all the several parts as supporting " one another, and as acting in combination to- " gether, to attain the only end and object of the " Laws—the safety and security of the people.

" The Trial by Jury is one part of that system; " the punishing contempts of the Court by At- " tachment is another; we must not confound " the modes of proceeding, and try Contempts " by Juries, and Murders by Attachment. We " must give that energy to each, which the Con- " stitution prescribes. In many Cases, we may " not see the correspondence and dependence " which one part of the system has and bears to

" another; but we must pay that deference to the " wisdom of many ages as to presume it; and I " am sure it wants no great intuition to see, that " Trials by Juries will be buried in the same " grave with the authority of the Courts who are " to preside over them."

In another place he says, " The arraignment " of the Justice of the Judges is the arraignment " of the King's Justice; it is an impeachment of " his wisdom and goodness in the choice of his " Judges, and excites in the minds of the people " a general dissatisfaction with all judicial deter- " minations, and indisposes their minds to obey " them; and whenever men's allegiance to the " Laws is so fundamentally shaken, it is the most " fatal and dangerous obstruction of Justice, and " in my opinion calls out for a more rapid and " immediate redress than any other obstruction " whatsoever; not for the sake of the Judges as " private individuals, but because they are the " channels by which the King's Justice is con- " veyed to the people. To be impartial, and to " be universally thought so, are both absolutely " necessary for giving justice that free, open and " uninterrupted current, which it has for many " ages found all over this kingdom, and which so " eminently distinguishes and exalts it above all " nations upon the earth."

Though there is an indorsement on this Case in sir Eardley's hand-writing, that the other

Judges would have agreed in granting the Attachment; yet this Opinion, not being delivered in Court for the reason above given, it must certainly be considered as the extra-judicial Opinion of the learned Judge only, confined to this partilar Case; how far the general reasoning in it is applicable to other Cases of a similar, or analogous nature, is a subject totally distinct from this question in the Court of King's Bench.

In the mean while, he never forgot the Profession which was the first object of his choice, and which he might have addressed in the language of truth, as well as of poetry:

> Ille meos, primus qui me sibi junxit, amores
> Abstulit; ille habeat secum, servetque sepulchro.

He was, like his great predecessor, sir Matthew Hale, whom in many parts of his character he much resembled, a very good Divine, and lived in habits of intimacy with many persons of high reputation in the church.

He was also very fond of the Arts, particularly Painting and Music; and often talked with rapture of a journey[d] into Italy, which he had fre-

[d] He says, in a Letter to one of his Sons, 25th November, 1769:

"I wish much to drag through the next Spring in my pre-
"sent harness, that we may raise a little larger Bank for our
"tour through Italy, not despairing of a peep at Greece and

quently serious thoughts of putting into execution. He made a tour to Paris in the year 1769, and there gratified his taste for Painting, by visiting the noble collections in that Metropolis.

Milton and Shakspeare were his favourite Poets among the moderns, and in the midst of his laborious occupations he sometimes sacrificed to the Muses.

On the resignation of lord Camden, and subsequent death of Mr. Yorke, in January 1770, the Great Seal, with other honours, was offered to sir Eardley by the duke of Grafton.

The day before lord Camden resigned the Great Seal, he came up to sir Eardley in the House of Lords, and, pointing to the Seal, said, "there it "is, sir Eardley; you will have it in your posses-

"Constantinople, 'favente Deo!'" And in another, from the Circuit, "Exercise yourself in speaking French as much "as possible; and I hope to slip the passage between the "South of France and Geneva by a sea-traject. We have "little business yet, and as the heat begins to increase, I fear "the business will do so too; but I am pretty well, and dream "every night of going on Ship-board, Post-chaises, Alps, "Statues, Pictures, Libraries, Palaces, Music, and Antichrist, "with all the scenery of the Revelation we read of at Christ-"mas. Be sure you get into some French house; ten days "will forward you like a melon in a hot-bed under a glass. "Masters signify little; it is the perpetual habit which does "the business." And in another letter, "Keep up your ac-"quaintance with the French and Italian, for the finger of "my dial points still at Rome. I have a strong passion to "wash my hands in the clouds upon the Alps."

" sion to-morrow." Sir Eardley shook his head, and begged to be excused. Lord Camden afterwards told a common friend, that he never was so surprised in his life, as when he heard that sir Eardley had really declined it.

The Great Seal was again pressed upon sir Eardley, in the course of that year, by lord North, who, on the resignation of the duke of Grafton, succeeded as first lord of the treasury. But sir Eardley was at this time too fixed in his resolution of retiring altogether from public business; and, having no sir Joseph Yates[e] near him, it seemed to him a good opportunity to urge the same reason for resigning the office he held, as for declining the one that was offered him. His ill health had prevented him occasionally from

[e] In a letter from sir Eardley to one of his Sons, 18th June 1770, he remarks, " The death of Mr. Justice Yates has " grieved me extremely. He is a great loss to his family; " but a much greater to the Public, as he was a most able and " upright Magistrate." He was buried at Cheam, Surrey, with the following Inscription on his Monument:

" Sacred to the Memory
of the Honourable
Sir JOSEPH YATES, Knight,
of Pul-Hall in Lancashire,
successively a Judge of the Courts
of King's Bench and Common Pleas;
whose Merit alone advanced him to the
Seat of Justice, which he filled with the most
distinguished Abilities and invincible Integrity.

attending his court, and he had been under the necessity, more than once, (though with much pain to himself) of requesting some of his Brethren to attend the Sittings for him, which is not the least important, or least laborious, part of the duty of the Chief Justice in each court.

His intention was to have resigned without receiving any Pension from the Crown, as is well known in his family; it appears likewise from the following Letters which passed between the late earl of Hardwicke and sir Eardley at this period.

"St. James's Square, Dec. 27, 1770.

"My Lord,

"I have for some days past heard a report of your intention to resign, and it is now inserted in the Papers with other Law arrangements, about which I am very indifferent; but if what relates to your Lordship is true, I am, on account of the public and the profession, most heartily concerned for it. If health, as I presume it is, has princi-

He died the 7th Day of June, 1770,
in the 48th Year of his Age,
leaving the world to lament the loss
of an honest Man and able Judge,
firm to assert,
and strenuous to support,
the Laws and Constitution
of his Country."

pally induced you to take this step, no man has a right to blame, and I most sincerely wish you may find relief by quitting business.

"Allow me to say, my Lord, what I do not mean as a compliment, that I have often regretted, that you have not been called forth by al the encouragement the Crown could hold out, to fill a much higher office in the Profession. It would have been a satisfaction to me, not only to have seen it, but to have given you any little support which had been in my power: but that indeed is an offer not worth thanking me for. It would have made me as happy as any public event can do, after our irreparable loss, to have wished you joy of a station, which you would have filled with credit, sufficiency, and dignity.

"I may freely say this to your Lordship in a Letter, though it might have given you pain to have said it in your presence. If in answer to this, you tell me the news about yourself is not true, I shall sincerely rejoice on public motives; if you acquaint me that it is, I shall attend you with my best wishes of "otium cum dignitate;" and hope your Lordship will continue to honour me with your friendship, and sometimes with your advice and opinion, which in these times, I foresee, I may want.

"I am, &c. &c.

"HARDWICKE."

"Ormond Street, 29th Dec. 1770.

"My Lord,

"I am honoured with your very obliging letter. The partiality you are pleased to express is the more flattering, as I am persuaded it is the result of your friendship.

"My health necessitates my retreat from public business, and all that I ask of his Majesty is, that he will be graciously pleased to accept my resignation; for I have desired that it may be communicated to the King in the most humble manner from me, that I do not wish or mean to be an incumbrance to his Majesty, by any pension out of his Civil List[f].

"I cannot omit my most sincere acknowledgments to your Lordship, for the support which you so kindly intended to have honoured me with, in case I had accepted an offer, which, in justice to his Majesty, I must, in confidence to your Lordship, confess, was made me more than once.

"Permit me to assure your Lordship of a pure and disinterested friendship on my part; and that whenever you may wish to know my sentiments

[f] In a letter to his brother sir Robert Wilmot, dated th 13th January 1771, he says, "I would much rather resign "without any remuneration at all; the "plus" or the "minus" of sufficiency lies only in my own breast. I hate and "detest Pensions, and hanging upon the public like an Almsman."

on any subject, you may depend upon having them without the least disguise.

"I have the honour to be, with the greatest respect, &c. &c.

"JOHN EARDLEY WILMOT."

With this view, and to be near the British Museum, which for many years he had much frequented, he took a small house in Great Russell Street about this period, on the idea that he should live in future on a contracted income: indeed, his residence in or near town, for the advantage of medical advice, was now become absolutely necessary. But his Majesty having desired to see him at Buckingham House, it was with much difficulty that he was permitted to decline the Great Seal.—When this was done, and his resignation of the Chief Justiceship of the Court of Common Pleas was at last accepted in January 1771, he was much surprised and disconcerted to find, that it was expected he was to receive a Pension for life. This he withstood in two several interviews with the first Lord of the Treasury: but his Majesty having desired to see him at Buckingham House, and finding his resolution fixed in declining the Great Seal, was pleased to declare, that he could not suffer so faithful a servant to the Public to retire, without receiving this mark of approbation and reward for his exemplary services. After this, sir Eardley thought it would be vanity and

affectation to contend any longer; and certainly his private fortune would not have enabled him to have lived in the manner to which he had been accustomed, and which he thought, while he held his office of Chief Justice, the dignity of his situation required. However, it would have been no sacrifice to him to have contracted his sails, and to have confined himself to a narrower channel. It has been seen that he was originally a younger brother, that he had always rather avoided than courted business, and that he continued only a few years in the court of Common Pleas. He had declined many opportunities of ennobling and enriching himself, and yet possessed sufficient for his own moderate desires. He had brought up all his sons to active business, and was justly sensible that this was preferable to any fortune he could give, or leave them. But as he was thus liberally provided for by his Majesty's bounty, he thought the least he could do was to make every return in his power; and having the honour of being one of his Majesty's Privy Council, he, in conjunction with the venerable sir Thomas Parker, who had been Chief Baron of the Exchequer, uniformly attended the Appeals to the King in Council till the year 1782, when his increasing infirmities obliged him to give up this

§ "Opibus nimiis non gaudebat, speciosæ contigerant."
TACITUS.

last part of what he thought his public duty[h]. His services in this interval had been constant, and were frequently acknowledged by the Lord President of the Council, and by the Minister in Parliament.

About this time, the reversion of an estate in Derbyshire, of about 400*l.* per annum, fell to him by the death of a gentleman, to whose family he was allied, and with which, in the early part of his life, he had lived in great intimacy: but there being an illegitimate son of one branch of the family alive, whom sir Eardley had patronized from his birth, he immediately made a conveyance of the estate to him for his life, and intended, if he had had children, to have given him the whole interest in it. This gentleman enjoyed the estate twenty-six years, and died in 1797, without children, leaving a small adjoining Estate, which he had purchased, to sir Eardley's eldest son, and his heirs for ever.

[h] Extract of a letter from sir Eardley Wilmot to earl Gower, 12th January, 1782:

"My Sight and Hearing are extremely impaired; but my Memory is so shook, that if I could read a Case over twenty times, I could neither understand nor remember it: and as my attendance at Council would only expose my infirmities, without being of any service to the Public, I cannot think of ever putting myself into such a disagreeable situation.

"I have the honour to be, &c. &c.

"EARDLEY WILMOT."

He now retired totally from public business, and saw very little company during the remainder of his life, except a few friends, whom time had hitherto spared. The principal of these were, lord Shelburne, afterwards created marquis of Lansdowne, sir Thomas Parker, lord Huntingdon, lord Hardwicke, and lord Bathurst, by whom he was frequently consulted, while he held the Great Seal, both on political and legal subjects[i]. He was resorted to by these and a few others for advice and for entertainment, his conversation being equally chearful and instructive. A person who has filled many high stations in public life, with the greatest honour to himself and advantage to the nation, told the writer of these sheets, that he was never in his company without feeling himself the happier and the better for it. He mentioned, among other anecdotes, that he once

[i] This appears from numerous letters, and likewise from his lordship's public declaration in the House of Lords, in a Cause of importance before that high Tribunal, in which sir Eardley's name and general sentiments, on the point of Law in question, had been mentioned.

Lord Bathurst desired the Cause might stand over for a few days, and on its being suggested, somewhat insidiously, that this was with a view to consult sir Eardley Wilmot, Lord Bathurst left the woolsack, and declared his avowal of that intention, and "that he should deem himself highly culpable, "if, when he had it in his power to consult that eminent per-"son who had been named, he did not, on this and on other "occasions, avail himself of the opportunity."

went to sir Eardley, under the impression of great wrath and indignation, at a real injury which he had received from a person high in the political world, and which he was meditating how to resent in the most effectual manner. After relating the particulars to sir Eardley, he asked if he did not think it would be 'manly' to resent it? "Yes," said sir Eardley, "certainly, it will be 'manly' to resent it: but," added he, "it would be 'God-like' to forgive it." This the gentleman declared had such an instantaneous effect upon him, that he came away quite a different man, and in a totally different temper from that in which he went.

It has been said he much frequented the British Museum, where there is a reading-room kept open, and aired for the convenience of such as may have occasion to resort to the Library. The Rev. Mr. Harpur, a late worthy librarian of that noble Repository, told the Editor, that sir Eardley, having desisted from his visits to the library for an unusual length of time, accosted him on his return, with great vivacity, by desiring his congratulations on a fortunate discovery he had made respecting himself; and on Mr. Harpur's expressing some eagerness to hear what it was, "Why," says he, "Mr. Harpur, I find I have quite forgotten every thing I have read; so that I can read the same books over again with new delight."

Among other occupations on which sir Eardley employed himself in his retirement, was a considerable Trust in behalf of a Charity and Foundation for a Free School and Almshouses at Rugby in the county of Warwick; and which, though small and confined in its origin, was now, by the approaching expiration of leases, becoming of great extent and value, and if judiciously planned and conducted, likely to be of great public benefit.

The remarkable rise in the funds of this Charity deserves particular notice and explanation. The property consisted chiefly of eight acres, being one third of twenty-four acres, called Conduit Close, situated in Gray's Inn Fields, in the county of Middlesex, the whole of which was purchased by Lawrence Sheriff, in the 2d of Elizabeth, 1560, for 320*l.* so that the purchase-money for these eight acres was at that time 106*l.* 13*s.* 4*d.* In the 9th of Elizabeth, 1567, L. Sheriff conveyed the whole twenty-four acres to Trustees, and afterwards, by his will in the same year, devized one-third part of these lands, and some other small property, to the same Trustees, to build a School House and Almshouses at Rugby, where he had resided; and likewise to retain a proper Master for the use of the School, to be called *The Free Grammar School of Lawrence Sheriff, Grocer.*

The Charity was much neglected for the first

hundred years. It appears that the third part of this Close of twenty-four acres was let in 1616 for 10*l.* per annum, in 1632 for 15*l.* per annum, and in 1642 for 25*l.* per annum. In the year 1686 a lease was made to Nicholas Barbon, his executors, &c. for thirty years, at the rent of 50*l.* per annum, with a covenant from the Lessee to procure a partition; which was accordingly done in 1689. In 1702 the Trustees demised this property to sir William Millman, his executors, &c. for the further term of forty-three years, at 60*l.* per annum, from the expiration of the former lease, viz. from 1736; and, as the last lease of forty-three years would expire in 1779, it was natural for the Trustees to anticipate what would be the state of the Charity at that period.

From the year 1702, when the last term was granted, the whole ground had been gradually covered with buildings, and converted into streets; and the Trustees had, in the year 1748, obtained an Act of Parliament for raising money to the amount of 1800*l.* to be applied in rebuilding the School, and for other purposes of the Charity. The whole produce of the Estate at this time, including that at Rugby, was 116*l.* 17*s.* 6*d.* per annum; but as the increasing income of the Charity was foreseen, the Act directed that the interest should be made principal every four years, and carry interest accordingly.

Sir Eardley being elected one of the Trustees in

1770, and having occasionally attended the annual meetings at Rugby in August, had been requested by the Trustees to consider the general state of the Charity, and particularly the best plan of proceeding on the approaching expiration of the lease. It appears, from innumerable letters and papers, that sir Eardley was occupied with this business for some years previous to this period; and having at last got rid of the difficulties that presented themselves, and having had the property surveyed and valued successively by two eminent surveyors, and a plan well digested for re-letting the Estate, sir Eardley drew up a plan for the regulations of the Charity, and for the improvement of the Foundation.

The estimate of the net rents, after paying off the debt on the Estate, amounting to about 6000*l.* and raising 4000*l.* more for some purchases and various contingencies, amounted to above 2000*l.* per annum; and the mode adopted was to let the property on building leases for forty-one years, subject to fines sufficient to raise the 1800*l.* required.

For these purposes an Act of Parliament was applied for and obtained, in 1777, chap. 71, entitled, "An Act to enable the Trustees, &c. of an Estate in Middlesex, given by Lawrence Sheriff, for founding a School, &c. at Rugby, in the county of Warwick, to sell or lease the said

Estate, or any part thereof, and for other purposes therein mentioned."

The Trustees at this time were lord Denbigh, lord Craven, sir Eardley Wilmot, sir Thomas Cave, sir William Wheeler, sir T. Biddulph, sir Francis Skipwith, T. Skipwith, W. D. Grimes, A. Gregory, esqs., and Rev. T. Berkley, Clerk.

Among other regulations mentioned in the schedule to the Act, drawn up by sir Eardley, were the following:

"That in case of removal of the Master, on account of old age or infirmities, a sum might be allowed him not exceeding 80*l.* per annum. Rugby Boys to be instructed without any reward from their parents, but such yearly sum, not exceeding 3*l.* for each boy, from the Trustees, as they should think proper, in order to proportion the profits of the Master to the number of boys under his care. Eight English exhibitioners to be elected, and sent to any College or Hall in Oxford or Cambridge, at 40*l.* per annum, each, for seven years and no longer; and not to be entitled to receive it, unless they actually resided eight months in the year in such College or Hall, and obtain a certificate of such residence."

Sir Eardley afterwards drew up a plan for applying the rents and profits, by which there was

an accumulating fund of 500*l.* per annum, to be laid up for the Charity, on which the Trustees made an order as follows:

"5th Aug. 1777.—It is ordered that the Plan sent down by sir Eardley Wilmot be accepted, and carried into execution, and that the Clerk do write to sir Eardley, and present to him the thanks of the Trustees, for the great care and trouble he has had in the Rugby Charity Affairs, and beg he will be pleased to carry his Plan into execution, as he shall judge best for the Charity."

Sir Eardley attended to the interest of this Charity for some years afterwards, till he was disabled by age and infirmities.

His principal society was in the bosom of his own family, as three of his children were married, and had presented him with twelve grandchildren. His wife, indeed, a most faithful and exemplary one! and his eldest son, who, to say all, was worthy of such a father! he was so unfortunate as to lose, in the two successive years after his retreat from public business. These losses, though he felt like a Man, he bore like a Christian. But, instead of attempting to describe his virtues in private life, and the infinite pains he took to instil into the minds of his children the principles of religion and virtue, it may not be unacceptable to the Reader to select a few of his

letters to them in the different periods of their youth.

Extracts of Letters from sir JOHN EARDLEY WILMOT to his Sons.

To one of his sons, aged thirteen, at school.

"London, 17th November, 1762.

"If any thing could add to the love and affection I have always had for you, it is the manner in which I find by your letter to your brother, that you have treated the observations made upon your wearing your brother's coat; and I rejoice in it as an earnest of a sound understanding, as well as of its being a presage of your advancement in life; for "whosoever humbleth himself shall be exalted:" and to give you some small testimony of my approbation of your conduct, I have sent you a watch, which I desire your acceptance of, to encourage you to walk humbly before God and man. Be assured that humility is the sweetest and fairest flower that groweth in the mind; that it perfumes the owner with the most attractive sweets; that it shews, in the fairest point of view, every virtue which adorns and dignifies human nature, and shades every imperfection which tarnishes and disgraces it. Be proud of nothing, but of acting firmly and steadily upon the principles of religion and virtue, and then, I am sure,

if I am proud of any thing, it will be of having such a son."

To the same.

"1st August, 1763.

"The only object I have in life is to make you all happy; and I would wish to give you in perfection every accomplishment which may make you honoured and esteemed in those courses of life which you must respectively pursue, for getting your own livelihoods. Your eldest brother has chosen to go to the East Indies, and is now learning French, writing, and merchants' accounts, in order to qualify himself for the East India Company's service: and as you seem to give the Law a preference, an intimacy with all classical knowledge, and more particularly with the Greek and Roman Orators, is an essential capital point, and to be cultivated with the greatest industry and application. Above all things, attend to the subject-matter of their Orations, and to their modes of thinking upon and treating their subjects; and beside the choice and elegance of their diction, you will find every thing which can be said or thought of upon the subject gathered together and urged with such resistless force, as must have amazed and transported their audience—But remember, you are to speak neither in Latin nor Greek, and that language is the vehicle of sense; and therefore, use yourself to write and speak your

own language correctly; and I can advise you to nothing so likely to improve you in that most material qualification for a lawyer, as translating Greek and Latin orations into English. Your mind will be thus impregnated with their thoughts, spirit, and fire, and you will find yourself surprisingly improved every day in speaking and writing your own language.

"The noble lord[k] who was so kind as to take notice of you, is a most eminent example of the utility of a classical education: he laid all his foundations in Greek and Roman oratory and poetry, and by an unintermitting cultivation of the prodigious natural powers of his mind, has beaten all his masters.

"My blessing and kindest love to your brother; and be assured, that the pleasure you seem to take in conforming to my wishes, endears you to me extremely; and that your duty shall always meet with an equal return of affection from your fond and indulgent father."

To the same.

"27th August, 1764.

"I take the first vacant hour I have had this month, to acknowledge the receipt of your Letter, and to assure you of my love and affection. I do not in the least doubt but you will merit

[k] Lord Mansfield.

every past and future instance of them, by seconding my endeavours to cultivate your mind, and principally to impregnate it with those principles of honour and truth, which constitute a Gentleman, and which I received in the utmost purity from my own father, and will transmit to you and to your brothers and sisters, as unsullied as I received them; and however fortune may exalt or depress you in the world, the consciousness of having always acted upon those principles, will give you the only perfect happiness that is to be found in this world. But above all things, remember your duty to God, for without his blessing, my love and affection for you will be as ineffectual to promote your happiness here, as hereafter; and whether my heart be full of joy or of grief, it will always beat uniformly with unintermitting wishes, that all my children may be more distinguished for their goodness than their greatness."

To the same, at an academy at Brunswick.

"Nov. 1764.

"I rejoice that you have so good an example to follow as Mr. Fawkener[1]; and you seem so well disposed to cultivate his friendship, that I need not enforce the utility of such an acquaintance.

1 William Augustus Fawkener, esq. eldest son of sir Everard Fawkener formerly Ambassador at Constantinople; he is now one of the Clerks of his Majesty's Privy Council.

The foundation of all durable friendships is Truth and Virtue; and where it is laid in those materials, Time only cements it closer together.

"The account of the duke of Devonshire's death has afflicted me extremely."

To the same.

"London, 14th May, 1765.

"I received a letter from Mr. Oeder[m], in which he mentions your having some Lace upon your clothes, when you went to Court[n]. I was a little surprised, as you had said nothing to me about it; I sent him an answer that I was very willing to give you this testimony of my indulgence. I know that customs and usages vary in different countries, and that a very proper dress in one country, is often thought most ridiculous in another; and though a student either at the University or Inns of Court would, if in a laced coat, be an object for the finger of scorn to point at, yet he may be a very different object in other parts of the world. Upon that principle, and because he said you wished it, I consented; though not without some

[m] One of the Professors at Brunswick.

[n] Which was encouraged by the reigning duke, as an advantage to the Students of his "Collegium Carolinum," as it was called, to which his Grace was very partial, and invited the ablest Professors. The trivial circumstance of the laced coat would not have been mentioned, except for the sake of the observations to which it gave rise.

uneasiness, lest it should divert your mind from that plainness and simplicity of dress, which you must invariably adhere to, if you embark in good earnest in the study of the Law upon your return.

" Your elder brother is now working in the East India Company's service, in a very fiery climate, and helps to maintain himself by a very painful and laborious application to business; and you know very well the great toil and fatigue I undergo to enable me to support, maintain, and educate you all, and to put you and your brothers into such tracks of life as you shall like for your future advancement; and as I have frequently told you all, the very trifling fortune I can leave you necessitates an active, vigilant, and provident pursuit of some Profession or Business, in which you may get your own livelihood, as I have always done, by your own labour and industry.

" Do not suffer any suggestions of the profits of my office to incline you to think that it will endure more expence than is absolutely necessary for your making a progress in your studies, for I do assure you that it doth but just answer my present yearly expences, administered with the utmost frugality.

" I am glad to hear so good an account of you from Mr. Oeder, and if you find yourself rather backward in speaking French, give a little more time to it, as I shall want you in the capacity of

a French as well as German Interpreter. My scheme is to take three weeks or a month at the Spa, and so to Brunswick, &c.

" Your affectionate father,

" J. E. W."

To the same.

" 14th June, 1765.

* * * " I wish to set your mind at ease by assuring you that you have the same place in my heart that you always had, and that it was my affection for you which directed my pen on the subject of expence in dress, and my remembrance of what Horace says:

" ——Eutrapelus, cuicunque nocere volebat,
" Vestimenta dabat pretiosa."

My fears arose from an apprehension that you might unawares contract a passion for dress when you returned to study the Law here, which would be inconsistent both with that course of life, and with my fortune to indulge in.

" You know me too well to think that I would withdraw any innocent amusement from you, that may relieve your mind and sweeten the toils of study; and I am very happy to find that you seem desirous of laying in that stock of erudition, which will enable you to do as I have done before you, ' stand upon your own labour and industry, without depending upon any body.'

" Be confident that the pains you take in making your own fortune will be most amply compensated to you by the satisfaction which arises from independence, and in that respect the Law has charms superior to any other profession.

" We chose our Circuits yesterday, and I am destined to the West. It does not divert me from thinking of seeing you about the last week in August; and I have a strong inclination to go by sea to Hamburgh; and let me know how far it is from you to Berlin, as I have a great desire to see the King of Prussia."

To the same.

" 22d August, 1765.

" I am by no means anxious for your taking the track of the Law, and therefore, if any other turn of life is more agreeable to you, I could wish you to take it, as my sole point with you is to put you into the road which is most agreeable to you, and then you will be most likely to succeed in it; for if any accident should happen to your Brother, it will not make the least variation in your fortune, and you must entirely rely upon your own industry and abilities for the fabricating of it; and as the gain or loss will be your own, I am willing, and indeed desirous, to take your own choice in the destination, whether it be to the Law, or to the Church, or the Army, to Physic, or any other civil employment.

"As you are now between sixteen and seventeen, you must seriously consider and examine the feelings of your own mind; and to whatever figure in the dial of business the finger points, you must invariably keep your eyes fixed upon it; all your studies, and applications, and habits, must lead towards it; and if you should discover in yourself any sentiment in favour of a military life, the course of your studies for that profession can be no where more successfully carried on than where you are[o]: but in the "legal" path, it may admit of doubt, whether too much foreign language may not prevent that fluency in your own, which contributes very materially to the formation of the forensic speaker here; for though sense, study, and application may make you a very good Lawyer, and give you knowledge; yet it never shines at the Bar, but through the medium and vehicle of a great command and choice of words to adorn and embroider it."

To his eldest Son,
in the East India Company's service[p].

"London, 20th May, 1764.

* * * "I was extremely rejoiced to hear, by your letter of the 20th of March last, from Ma-

[o] Then at a foreign Academy.

[p] His eldest son, Robert Wilmot, esq. at this time about seventeen years of age, set out the preceding winter to Cal-

deira, that you were got safe there and well. You are not singular in having lost some time at school; but as you are young, it may be recovered with ease by diligence and application. Latin and Greek would have been of very little real service to you in the course of life you have chosen. Writing finely, mathematics, and all the modern languages—geography and history will be of great use and service to you; and as I see by your letter that you are more fully convinced of the advantage of Learning both for your profit and amusement, I have not the least doubt but your feeling the want of it will make you exert all the powers of your mind for the attainment of every qualification which may render you worthy of the notice and patronage of Lord Clive, who is so kind as to give me hopes of his protection of you; but you must render yourself capable of being served, by qualifying yourself perfectly in the station you are in, and by your diligence and fidelity approving yourself worthy of advancement. As you are, and have been from your cradle, a very honest boy and untainted with any vice, I say nothing to you upon that head, but desiring you to persevere, steadily and unalterably, in the paths of Honour and Virtue;

cutta as a Writer in the East India Company's service, having chosen that line of life in preference to any other.

and if Interest ever clashes with your Honour[q], remember you are the son of a man who would have died ten thousand deaths before he would have sacrificed one particle of his honour to any advancement whatever: my Father left me a most blameless and unspotted reputation, and I will leave it to you in the same purity I received it; and believe me when I assure you that its value is inestimable, because it will treat you for ever with what Power and Riches cannot give of themselves, I mean that peace and composure of mind which is the only certain and lasting felicity human nature is capable of enjoying. When you write to me, say how you like your employment, and give me an account of your manner of living and spending your time. I will endeavour to serve you and assist you to the utmost extent of my abilities. I refer you to your mother and sister for News, and with the warmest wishes for your health and prosperity, am

"Your most affectionate father,

"E. WILMOT."

q It is evident that the Honour here inculcated, is that only which is founded upon Religion and Virtue.

"Honour's a sacred tie,
"The noble mind's distinguishing perfection,
"That aids and strengthens Virtue."

To the same.

"London, 22d Nov. 1765.

"I have been very unhappy in not hearing from you since your last, which gave so indifferent an account of your health, that I have hoped and expected to hear again from you by every ship which came from the East Indies, or by land, as you mentioned an intention of writing that way; but my uneasiness has been a little abated this week, by having found out a gentleman who came home in the Caernarvon, and had seen you just before he left Calcutta; and I must beg of you, that for the future you will never let a ship leave Calcutta without writing something, if it be but a line or two, that we may know how you do; for if you find the Climate disagrees with you, I would by no means have you stay to the endangering of your health, which is the greatest blessing in this life, next to the consciousness of having acted virtuously and honourably upon all occasions; and therefore consult your own feelings, and take the advice of your friends who have lived long in the country, and pursue such feelings and advice. For though I am utterly unable to support you as I could wish, without your embarking in some way of life to support and maintain yourself, yet you are young enough yet to turn yourself to some other

employment, and I might have interest enough, perhaps, to get you into some employment here.

" I am pretty well myself, but fear my constitution will not long endure the fatigue of my office; and as I have worked hard all my youth, I hope for a few years quiet in the evening of my days, and nothing will more contribute to that quiet than the welfare of yourself and brothers, for whom I have the greatest love and most cordial paternal affection. My prayers to God shall be most fervent for the continuance of his goodness to you, and that you may, by a virtuous and honourable demeanor, approve yourself not unworthy of his grace and favour shewn to you, by stretching out his hand to snatch you from a danger so long impending over your head. You alone can judge whether you are likely ever to recover your health in the country where you are, and as you seem to think you cannot, I would not have you stay upon any account; and indeed, if your health should be totally restored, there is a very material objection to your continuing any longer in the East Indies, if the account given to me by Mr. Vansittart is the exact state of the writers in the service.

I am persuaded you know my love and affection for you too well to doubt my inclination to do every thing for you in my power; but the utmost extent of that power is to remit you an-

nually one hundred and twenty pounds, and I hope that sum will enable you to improve yourself in the business you have chosen, and in time to support yourself as I have done, and now do, by Labour and Industry; and if that sum will not do, the first loss is the least, and you must at all events come back: We must then think of some other course of life to be pursued for your advancement; for I have little to give you but my hand whilst I live, to assist and help you forwards in climbing up the Hill of Fortune, which must be done by your own pains and application.

"You are now arrived at such an age, and from your letter appear to be so sensible of the inconvenience of intemperance, that your own sense and safety will speak more persuasively to you than I can upon that subject.

"I cannot conclude my letter to you without most earnestly supplicating you to do your duty to God, for unless he is with you, all your labour will be in vain.

"I am your most affectionate father,

"E. WILMOT."

To his second Son[r].

"21st April, 1766.

"I have received yours, and the Term being

[r] Then a Commoner at University College, Oxford.

begun, I have not had time to compare the oration[s] with the original, but stole an hour yesterday for the first sheet, which I return herewith. I assure you, I found it much better than I expected, and you cannot pursue an exercise which will be of greater service to you; for beside improving yourself in the knowledge of Latin, it will facilitate the great and arduous work you have undertaken, the speaking "apte, ornate, et disposite," in your own language—it will give you a great stock of words, and insensibly impregnate your mind with very beautiful ideas, and a happy manner of expressing them: and I wish you to attain such a knowledge of the Greek, as may enable you to read Demosthenes, because his concise and nervous manner of speaking strikes an audience more forcibly than Tully's, and is more adapted to the taste of the present age. They are both excellent in their several ways: I forget who, but I think it is Longinus, who says,

[s] Pro Archia Poeta.—In another letter about this time, he says, "you could not have chosen an oration more emphatically descriptive of my sentiments upon the advantage as well as ornament, which every species of literature imparts to a Lawyer: but even independently of all profit and praise, (which was the immortality of the heathens) it was, in Plato's opinion, the only physic for the soul; and Pliny calls it, "unicum doloris levamentum." It must be recollected that these letters were addressed to a youth at College, whom his father wished to encourage at this time in the pursuit of classical learning.

"Tully strikes with his hand open, and Demosthenes with his hand closed;" and that the one "blazes like a fire, but the other throws thunderbolts;" and till you have advanced a little further in Greek, you cannot do better than take another of Tully's orations, and amuse yourself now and then with a play of Terence, where you will find more good sense than in most of the plays that have been written in this country. I have a great inclination to read Livy over again myself, and therefore reserve that Book for the vacation, and we will take an hour every day together, in walking over that fine embroidered carpet of Roman history. There is a strain of honour and greatness in the Greek and Roman writers, which, like music, speaks to every sublime and virtuous principle of the mind.

"Logic is certainly dry and unentertaining, but stretch all the nerves and sinews of your mind to attain it; for it is of infinite use in setting a keen edge upon the understanding; and besides, it gives an eagle eye in detecting false reasoning and sophistry. I never knew an able Logician, who did not acknowledge and feel the utility of it in forensic practice: and if you wish to figure in a legal Profession, you must travel through many dry, unpleasing countries, where nothing can support you in the journey but catching a glimpse, now and then, of the terrestrial paradise which is at the end of it; by which terrestrial

paradise, I mean a state of independence, and a capacity of living as you like to do, without deviating from the paths of honour and virtue, or courting either fools or knaves for a livelihood: and I hope it will be written upon the tablets of your heart, in characters not to be effaced by ambition, avarice, or pleasure, that the only sure and certain happiness to be found on this side of the grave, is a consciousness of your own rectitude. All peace and homefelt joy is the gift of virtue, and there is no applause in this world worth having, unless it is crowned with your own.

" We drank many happy returns of your birthday to you, when you would have changed your dress, if you had been a Roman, and put on the " Toga virilis," which was a white loose flowing gown, and which I thought of describing to you; but you may see it amongst the Pomfret statues, as it was the same kind of gown the Romans always wore, and so peculiarly appropriated to them that they were called " Togati." It was a day of festivity, being the commencement of ranking in the State as men; and therefore Seneca, in one of his letters, says, " Tenes memoria quantum sen- " seris gaudium cum, Prætextâ positâ, sumpsisti " Togam virilem;" and it is very observable what Valerius says of the great advancement of youth in science at that age, " Cotta ipso die quo To- " gam sumpsit virilem, C. Carbonem accusavit."

It must have been a graceful, but rather an inconvenient dress, and an impediment to that display of the hands and arms which our dress leaves us; but you will see how adroitly they pulled it from the right side by clasping it upon the left shoulder, which gave the right arm a much greater liberty than the left, as it was most used and wanted.

"A ship is just come from the East Indies, and we expect every hour to hear of your Brother, for whose health and prosperity unite your prayers with those of your most affectionate Father."

To the same.

"Bodmyn, 1st August, 1766.

"I received your letter of the 23d of July, at this place, and am much better than when I left London, and am to go through some discipline at Bath; I much wish to keep my Office till you have made another campaign at Oxford. You discover great intuition by admiring Mr. Justice Aston; no man has a stronger understanding, and he is very affable and entertaining.

"I hope you take a dose of academical literature now and then; a total intermission will unbrace your mind and give it a retrograde motion, which would cost you time and pains to fetch back again, and to restore to the elasticity in which you left it on your departure from Oxford. I would not pelt you with advice, if I had not

discovered in you a desire to advance yourself in life, and therefore think I cannot please you more than by shewing you the shortest way to it.

"Remember a little French for your Sisters, and a little Greek for your affectionate Father."

To the same.

"21st October, 1766.

"I should think myself very defective in my duty to you, if I did not most warmly exhort you to take more care of your health than you have done; for if the foundations are weakened at your years, debility of body will most infallibly draw on debility of mind, and extinguish that "vivida vis animi," which sets one part of the human creation at as great a distance from the other, as there is between a bird and an oyster. I am glad to hear you are fallen at once into an academical life. Let me recommend a constant attendance on Prayers; for religious habits give religious practices; and whatever resolutions you may deliberately make, if Religion does not bind the observance of them upon your mind, human reason will be too weak for the impulse of human passions; and you will find the steerage of yourself through those rocks most dangerous, and frequent shipwrecks unavoidable. It has been my wish to pilot you through youth with safety; it is a very difficult passage, and I shall keep my hand at the helm while I am able. I have always

recommended œconomy, not from any avaricious motive, but because I know that expence and study will not mix together in any mind that does not burn with Ambition—and of all the evils, or rather devils, which lash mankind, I would wish to keep you out of that domination; for when it steps beyond that swell, which the consciousness of virtue and moral rectitude infuses, it is the source of unhappiness and all iniquity, and every homefelt joy departs before that tyrant. Be assured, that all the parts which nature ever gave, with all the knowledge of Greece and Rome, embellished with all the science which philosophy can impart, are not worth one single wish, if they do not lead their owner to think humbly of himself, and at the same time to feel that inward greatness of soul, which looks only at the rectitude of measures, and is uninfluenced by any motive that is not bottomed upon Religion and Virtue[t]. Above all things, keep your eye steadily

[t] This is shorter, but not unlike, nor very inferior, to that beautiful and sublime passage in Dr. Tillotson:

"If a man, by a vast and imperious mind, and a heart large "as the sand upon the sea-shore, as it is said of Solomon, "could command all the knowledge of nature and of art, of "words and things; could attain to a mastery in all lan- "guages, and sound the depths of all arts and sciences; mea- "sure the earth and the heavens; tell the stars, and declare "their order and motions; could discourse of the interests of "all states, the intrigues of all courts, and give an account of "the history of all ages; could speak of trees 'from the cedar-

upon the fabricating of your own fortune, and standing upon the ground you make yourself, without expecting assistance from either friends or relations; and it is an infallible receipt for procuring assistance, to shew you do not want it. I am so sincere a friend to the Universities, that I hope the Reform[u] will be carried with such "comitas," temper, and moderation, as may procure a submission to it from a conviction of its propriety and rectitude. Indeed, I am such an enthusiast in the cause of Literature, and am so satisfied of the necessity of reforming the expence of the University, to serve that cause effectually, that I most cordially wish success to the regulations, and think the Chancellor deserves the thanks of the nation for attempting it[v].

"tree that is in Lebanon, even unto the hyssop that grow-
"eth out of the wall;' and of beasts also, and of fowls, and
"of creeping things, and of fishes—and yet should be desti-
"tute of the knowledge of God, and of Christ, and of his
"Duty, all this would be but an impertinent vanity, and a
"more glittering kind of ignorance; and such a man (like
"the Philosopher, who, while he was gazing on the stars, fell
"into the ditch) would but 'sapienter descendere in infer-
"num,' be undone with all his knowledge, and, with a great
"deal of wisdom, go down into Hell."

TILLOTSON'S WORKS, vol. i. serm. i.

[u] Then about to take place in the University.

[v] In another letter, he says, "I have long been a warm Advocate for our Universities, and for that reason have been perhaps too rigid and severe a disciplinarian; for their existence

"Mr. Jones[w] has been with me this morning —he seems a genius—and you may rely on my shewing him all the civility in my power."

depends upon the activity and honour of the Tutors and Heads of Houses; and whenever there is a total relaxation of discipline, and they either do not take care to know, or whenever they connive at idleness and dissoluteness, the Parliament must, and ought, to take the reformation of them into their own hands; and attempt to rescue the rising generation from vice and ignorance, by some new system of academical government."

[w] Afterwards sir William Jones, at that time a Student of University College, Oxford, with whom the Editor was intimate, and kept up a constant intercourse of friendship and correspondence, both before and after they quitted that learned Seminary.

As the following letter from this eminent person relates to sir Eardley's resignation in 1771, and likewise contains sir William Jones's sentiments on the study of the Law, it may not be improper to insert it here.

"University College, Oxford, 3d Jan. 1771.

"* * * *,

"It makes me very happy to hear, that my Lord Chief Justice retires from a motive that does him the highest honour. He will now enjoy the greatest happiness of human life, "Ease with dignity," after having passed through the most honourable labours without danger. I should think myself highly blessed, if I could pursue a similar course in my small sphere, and after having raised a competency at the Bar, could retire to the bowers of Learning and the Arts.

"I have just begun to contemplate the stately edifice of the Laws of England,

"The gathered wisdom of a thousand years,"

To the same.

" 12th March, 1767.

" You are in a very right track of study for the

if you will allow me to parody a line of Pope. I do not see why the study of the Law is called dry and unpleasant, and I very much suspect that it seems so to those only who would think any study unpleasant, which required a great application of the mind and exertion of the memory. I have read most attentively the two first volumes of Blackstone's Commentaries, and the two others will require much less attention. I am much pleased with the care he takes to quote his authorities in the margin, which not only give a sanction to what he asserts, but point out the sources to which the Student may apply for more diffusive knowledge. I have opened two common-place books, one of Law, and the other of Oratory, which is surely too much neglected by our modern speakers. I do not mean the popular eloquence, which cannot be tolerated at the Bar, but that correctness of style and elegance of method, which at once pleases and persuades the hearer. But I must lay aside my studies for about six weeks, while I am printing my Grammar, from which a great deal is expected, and which I must endeavour to make as perfect as a human work can be. When that is finished, I shall attend the court of King's Bench very constantly, and shall either take a lodging in Westminster, or accept the invitation of a friend in Duke-street, who has made me an obliging offer of apartments. He has two nephews at Westminster-school, and by helping them now and then in their exercises, I shall find an agreeable relaxation from severer studies.

" On one of the Indian pictures that I saw at your house, there was a beautiful copy of Persian verses, which I will beg leave to transcribe, and should be glad to print it with a translation in the appendix of my Grammar. I have not yet had

Law, and if your speech[x] don't fail you, I am sure your application will vanquish every difficulty, and lead you to success in any profession you chuse.

"I can form no judgment of the disputes[y] in your College, because I don't know the nature of them; but use yourself upon all occasions to think and act for yourself upon weighing the propriety of the matter under consideration, and never suffer yourself to go with the crowd, unless you are satisfied the crowd is in the right.

"We have had more letters from your Brother, who is well, and discloses a mind impregnated with the noblest and most exalted sentiments, and will reflect more honour upon me than I ever can upon him; I will send you his letters to read, for I believe they are of a kind which never came before to a Father from a son of nineteen."

my Persian proposals engraved; but when you write to your Brother, you would much oblige me, if you would desire him to send me a little Persian manuscript, if he can procure it without much trouble. It is a small Poem which I wish to print. I have inclosed its full title in Persian and English.

* * * * "W. JONES."

x His son contracted an impediment in his speech at Westminster School, when he was twelve years old, which he was twelve years more in getting the better of.

y This alludes to some differences of opinions in the College, concerning the exercises in Logic.

To the same.

" 3d March, 1768.

" * * * I have not the least predilection for Divinity, as a Profession.—I saw very early the inanity and futility of ambition and avarice; but it threw me into another extreme—of wishing to do nothing beyond the bounds of a Parish: whereas we were certainly intended to exert our powers in those stations of life, for which Providence has shaped and fitted us. I do not mean to insinuate that the life of a country Parson is not one of those stations; for it certainly is, and demands both abilities and entire dominion over passions, to execute it properly; but I mean to acknowledge, that a false motive at that time led me to the choice of it; and therefore neither let the cause, nor my example in that wish, influence your conduct in the remotest degree.

" It is always right, that a man's wishes should go along with the Profession he is to follow; but his wishes should not be actuated by a bashful, timid, and indolent principle.

" Divinity is certainly a very noble study, and, considered as a Profession, is highly honourable.

" Physic is likewise so; apprenticeships to both are served in the Universities, and the latter is finished by foreign Travel.

" The true apprenticeship for a Conveyancer, is the same mode of study and attendance upon

Courts, that the Bar requires; and the hand of some eminent Conveyancer will mature him greatly, and warm him into an effective existence much earlier than can otherwise be expected.

"If money be the principal object, Agencies for Plantations, and the channel in which Mr. * * * * runs, is superior to any.

"Going abroad with Ambassadors, and qualifying for that most useful employ, is a primrose path of pleasure; but I am afraid there is no solid gold under it.

"I do not mention the Army, Navy, and Trade, because your antecedent studies and course of life have not pointed that way: but to the other Professions, you have not been an inch out of your way yet. Do not disquiet your mind about the choice; leave it to time and to me to determine for you; but rest assured, that I will take your wishes along with me, and that I will direct and guide, not controul or force them from their natural bias. Your studies have been hitherto well directed; and be assured you will find your taste refined, your mind sublimed, and a noble dignity of sentiment infused into you, from mixing Longinus into your blood, and purifying it with his virtues.

"I rejoice to find you take so kindly to Tacitus: it has always been a favourite book with me, and is an inexhaustible reservoir of political wisdom. You enter so fully into the spirit both of

the Hero and the Historian, that I defy you to discontinue it; and if you could manage so as to let me lie in your room, I think I should make you a visit for three or four days at Whitsuntide, and treat myself with some of the celestial manna of classical Learning.—See my plan—rise at six—chapel—five hours study, and a walk before dinner—ride in the afternoon—"atticæ noctes," and to bed at ten—and next to the pleasure of seeing you, the being sequestered from the strepitus of this Town, will be no small part of the pleasure of such a retreat. I wish I could put you into the Office I have, and take the pleasing, sequestered, delicious, undisturbed hours of study which you enjoy, without a single thought of worldly affairs, or caring what becomes of the Great Mogul or Benjamin[z]!"

He put his design into execution, and was much pleased with his visit to University College, where he met his old school-fellow Dr. Johnson, dined with him in the Hall, and spent an hour or two with the Fellows in the common room after dinner. He likewise became acquainted with many young men of the College, Mr. Jones, Mr. Wren, the two Mr. Scotts, and Mr. Windham, &c. some of whom rose afterwards to the highest offices in the Law and in the State, as

[z] His agent in the country, who had lived with him twenty years.

well as distinguished themselves in their various Professions. It may not, therefore, be unseasonable to mention the names of most of them, taken from the list of a club they afterwards formed in the metropolis, and which they engraved a few years ago, as a Memorial of their contemporary residence and friendship at College, viz.

UNIVERSITY COLLEGE CLUB,
Consisting of Contemporary Members of that College, Oxford,
proposed by the Earl of Radnor in 1791.

—

Bust of
KING ALFRED,
Founder of
University College,
OXFORD.

—

Quisquis es, vel Libertatis
Amans, vel Literarum,
Illius Viri Imaginem
Piis suspice oculis;
Qui Patriam,
Peregrinis Hostibus afflictam,
Domesticâ morum feritate
Et turpissimâ simul ignorantiâ
Laborantem,
Armis erexit,
Legibus emollivit,
Scientiâ exornavit.
Si sis Britannus,
Possis etiam gloriari,
Militarem Romuli Virtutem,
Philosophicam Antonini Gravitatem,
Unicè in se complecti
BRITANNICI ALFREDI NOMEN.

Names of the Members.	Times of Admission.
HONORARY MEMBER.	
The Rev. Dr. Wetherell, Master of the College,	1749.
Right Hon. sir W. Scott, M. P. President,	1764.
Hon. sir Robert Chambers,	1761.
Hon. Fletcher Norton,	1762.
Hon. W. T. Skeffington,	1763.
Hon. sir William Jones,	1764.
Rev. William Welfitt, D. D.	1764.
Rev. George Strahan, M. A.	1764.
Rev. Peter Rashleigh, M. A.	1765.
John Wilmot, esq. M. P.	1766.
Rev. Philip Fisher, D. D.	1766.
William Palmer, esq.	1766.
John Scott, esq. now Lord Eldon,	1766.
Sir Ed. B. C. Hartop, bart. M. P.	1767.
Walter S. Stanhope, esq. M. P.	1767.
Jacob earl of Radnor,	1767.
Right Hon. William Windham, M. P.	1767.
Nicholas Ridley, esq.	1767.
Richard Page, esq.	1767.
Nicholas Smith, esq.	1768.
Henry Ulric Reay, esq.	1768.
Thomas Burke, esq.	1768.
Sir William Young, bart. M. P.	1768.
Ed. Watts, esq.	1768.
Geo. J. Cholmondely, esq.	1769.
Sir Charles Talbot, bart. M. P.	1769.
James Adams, esq. M. P.	1769.
Hugh earl Fortescue,	1770.
John Cookson, esq.	1770.
Right Hon. Reginald Pole Carew, M. P.	1771.
Hon. William Henry Bouverie,	1771.
Thomas Plumer, esq. M. P.	1771.
Francis earl of Moira,	1771.
Hon. Bartholomew Bouverie, M. P.	1772.

To his youngest Son, intended for Commerce*.

" 15th December, 1767.

" I am glad to hear you have been " busy," for of all the misfortunes that can befal a young man, Idleness is the greatest; and therefore if Mr. * * * *'s affairs do not employ you, I do most earnestly recommend it to you, to appropriate some of your time every day to the improvement and cultivation of your mind, by reading such books as will instruct you in the duties of your Religion, and impregnate your heart with the principles of Piety and Virtue. Be assured that weeds will grow in the best soil, if they are not carefully attended to and eradicated on their first appearance: But above all things, extirpate every species of Pride, except that of doing your duty to God and man."

To the same.

" 10th October, 1768.

" I am happy to find you have taken such a wise and spirited resolution, and am fully persuaded you will tread in my steps, and be the architect of your own fortune, with " a conscience void of offence towards God and towards man." In a commercial country, as ours is, depending upon trade entirely for its lustre and greatness, a

* He was at this time with a Merchant in the city.

Merchant always has been, and is at this time, one of the most valuable, as well as the most dignified characters in the whole community; but the foundations of success in it, must be laid at first in frugality, and an established character for honour and probity. It is in your power to practise the one, and by a courteous and honourable deportment to acquire the other. Besides the homefelt joy which Virtue always blesses her votaries with in this world, it insures affluence and pleasures, and gives a well-grounded hope of beatitude in the next.

" You always have had, and shall have, all the encouragement I can give you; and when I grow old, you and your brothers must return my attention to you, by shewing you have profited by my instructions, and have not suffered either the vicious, or the vain and foolish, passions of this age to pollute your minds, and turn you out of the " ways of pleasantness and the paths of peace." I have seen your letter to your brother, and am very happy to find such an honourable turn in your mind; it falls in with the favourite passion and wish of my soul, that all my children should look off themselves and their own selfish gratifications; and from your grateful and spirited conduct, I have the strongest assurance that you will inherit all the virtues of my father, without any intermixture of the infirmities of your own."

To his second Son.

" 3d June, 1768.

" I am happy to find that my earnest desire and endeavours to serve you meet with so grateful a return; and though I am conscious you may sometimes think I hold my hand rather too tight, yet I am fully persuaded that the advancement of yourself in life will be greatly forwarded by it. I have had some conversation with a person much more able than myself in the guidance of a Law Education, and he is clear you should still aim at the Bar, and be with a Special Pleader for three years, to commence next Michaelmas Term, and that it will accelerate your progress at the Bar; considering your youth and inexperience, I rather rejoice that you are not launched into so difficult and stormy a sea as was very near lying open before you[b].

" I beg my compliments and service to all my fellow collegiates, particularly to Mr. Windham and Mr. Scott; they are two of my shining lights, and will blaze out some time or other[c]. With my duty to the Master, I remain, &c."

[b] An offer of going Secretary to an Ambassador.

[c] The public has lately sustained a great loss by the premature death of one of these distinguished characters!

To the same.

" 11th June, 1768.

" You do very right to shew me every side of your mind, because it enables me to take your natural disposition and wishes along with me in your future destination.

" From the picture drawn of your mind in your letter, I am satisfied the Law is the Profession you will like the best, because it leaves you a freer agent than any other, and bottoms your fortune upon your own labour and industry; and in case the infirmity in your speech should negative the Bar; yet the knowledge you must acquire in preparing yourself for it, must capacitate you to assume the function of a Conveyancer, which was the branch I most wished to have applied to, and had actually entered upon, when I was promoted by the late King. I believe it will be the wisest way to turn neither to the right hand nor to the left; but walk directly forward in the road you first took, come to London in Michaelmas Term, fairly strip into your shirt, and work hard for three years; and if in that time I can give you any little additional emolument, you will be landed upon ground that can never tremble under you.

" Turn your eye a little to Court hand; the utility of it to a Lawyer is great.

"I sold the Office[d] yesterday, and having broken one hundred pound of the money, twenty pound falls to your share; and the only favour I beg of you is, that you will not hoard it up, and make it the foundation of that anxious disquiet, which always accompanies an appetite for Riches. I send you the seal of Harpocrates by Mr. Chambers[e], and you will see that putting your finger upon your lips puts the horn of abundance under your arm."

To his eldest Son, in the East Indies[f].

"10th February, 1767.

"* * * I have not the least doubt, from the spirit which animates your letters, but that you

[d] Of Prothonotary of the Court of Common Pleas, one of those saleable Offices reserved for sale out of the Act of the 5th and 6th of Edward VI. by the Chief Justice of the Court, being a mere ministerial office arising from settled Fees.

[e] At that time Tutor of University College, Oxford, and Vinerian Professor of Law; afterwards sir Robert Chambers, and Chief Justice of the Supreme Court of Judicature at Bengal in the East Indies.

[f] From the great distance of his eldest son, viz. in the East Indies, his correspondence with him was not so frequent; and few of his letters would probably have been preserved, but from the circumstance of his friend, Mr. Ham, who took out administration to his estate upon his death in November, 1770, having sent many of his effects, and some of his letters, to his disconsolate parents, from which these extracts have been made.

will act and conduct yourself, upon all occasions, in such a manner as will do honour to us, and endear you to every body. The very generous and noble communication of your wanting no farther supplies from me, is so decisive a testimony of the goodness of your heart, that to the natural affection of a Father, it has added the closest connexion which human nature knows, a disinterested friendship, founded on an opinion of your Honour and Virtue.

"I am pretty well at present, but am afraid my infirmities will not suffer me to continue in office much longer; and I indeed wish to have a little time to myself, before my final departure, to prepare for that Account which we must all give of ourselves before a Judge "to whom all hearts are open, and from whom no secrets are hid." I owe both the past and the present peace of my mind to the having had that "account" at all times in my contemplation; and I could not love you as I do, if I did not most cordially recommend it to you to keep that account as clear of errors as human infirmities will permit.

"Your Mother and all the rest of your Friends are well, and join with me most cordially in wishing that a prosperous gale may always fill the sails of the Bark of your fortune, and fan you to the Port of your own desires. My prayers are for your health, and for a moderate fortune, acquired with that honour and virtue which at present so

eminently distinguish you: and if, by a timely retreat and the blessing of God, I prolong my life till the day of your return, I 'shall depart in 'peace, when my eyes have seen thy salvation.'

"Your &c."

To sir EARDLEY WILMOT,
from his eldest Son, ROBERT WILMOT, esq.[g]

"Allahabad, 30th January, 1768.

"I cannot permit this opportunity to elapse without addressing a short letter to my dearest Father, to apprize him that I am in perfect health, and to express my earnest wishes that you and my dearest Mother, with all my Friends, have the same good fortune.

"In your letter of February, 1767, you desire me to make you a promise[h] that I will never enter into the conjugal bands without your approbation; to which I freely consent, for two reasons: The first is from respect to your injunctions, to which I ever hope to pay the most implicit obedience; the second proceeds solely from inclination, as I think the British Damsels that have the courage

[g] Many of his Son's letters are mislaid or lost, but fortunately we are able to furnish extracts from one or two of them.

[h] Sir Eardley released his Son entirely from this promise in a subsequent letter, vide p. 154.

to trip over the vast ocean that separates us, in pursuit of man, are not sufficient allurements to engage in that sacred compact. I am determined not to be attired in the regimentals of Hymen till my return to England, at which time I shall rejoice to have my labours crowned by the smiles of one of my fair countrywomen, if her dowry should be no more than Modesty and Virtue.

"Let me entreat you to remember me to my dearest Mother, in terms kind, tender, and dutiful; assure my Sisters and Brothers of my perpetual friendship and fraternal affection. Offer my best respects and duty to my Uncle and Aunt, and I pray you tell my acquaintance that I mentioned them in the most courteous manner."

To his Son in the East Indies.

"7th April, 1768.

"* * * I was extremely concerned at the contents of your Letter[i]. * * I have not time to,

[i] Relative to a robbery of a large sum of money, viz. 80,000 rupees—11,000*l.* st. which he sent for from Patna to Allahabad, for the use of the 3d Brigade, of which he was at that time Paymaster. The Chief of Patna had granted a guard of one Havildar and twelve Sepoys; but it was attacked at Arvury, forty koss from Patna, by a band of robbers, and plundered: two Sepoys were killed, and several wounded, in the attempt to defend it.

His son was much concerned at this affair; but by great exertions of himself and his friends, all but 2000*l.* was re-

enter into any minute details; I am afraid the ships will sail even while I am writing; but I advise you to take the opinion of Mr. Varelst, and substitute him in my place, and follow his advice upon every difficulty which does or may occur: If you find the climate will not agree with you, I must repeat what I have said before, "Return to Europe," where you will be sure of being received by me with the same love and warmth of affection I ever had for you, uninfluenced by any turn of fortune to your prejudice; but if you wish to stay in India, and try your fortune a little longer, and have occasion for a thousand pounds, "draw upon me for it," and it shall be punctually paid: but at all events, and in every situation, act with honour and firmness, and don't suffer any disappointments to prey upon your spirits, and disturb the peace of your mind. Storms arise about every man, for the trial and exercise of those virtues which ennoble human nature, and are often sent by God to awaken men's minds,

covered. He says, in one of his letters, "My friends made strong representations, and pleaded hard an ancient custom, if not an established Law, of Indostan, 'that the inhabitants are responsible for all robberies committed within the Province':" But he says, in a subsequent letter, "I was obliged to relinquish the remainder. This loss, though great, (and indeed at that time something more than I possessed) was little compared with the whole, and I therefore submitted to it with alacrity and chearfulness."

and call forth their attention to their real happiness both here and hereafter; they are frequently meant as the kindest admonitions, and are the messengers of God's favour and goodness. * * * That God may take you under his protection is the incessant prayer of

"Your most affectionate Father."

To his Son at Oxford.

"* * * I am sorry for your own sake to hear you find a want of that moderation and constancy of mind, which alone enable a man to go through life with credit and comfort[k].

"I am very sensible that parts and spirits and natural abilities, and that elevation of soul, which unites humility and supereminent greatness together, are in the power of no man. They are "particula divinæ auræ," perhaps infused by God, when he first animates the clay; and their efful-

[k] His son's mind was at this time a little disturbed with the choice of a Profession, having had different opinions on the subject from some of his Friends. He communicated therefore his difficulties to his Father, who wrote to him this and the following letter.

The impediment in his speech induced him at this time to relinquish the Profession of the Law; but having got the better of this, in great measure, in two or three years; and having had the misfortune to lose his elder Brother in the year 1770, he, with the approbation of his Parents, returned to that Profession.

gent brightness is visible to every discerning eye, whether it irradiate a prince or a beggar: but moderation is a virtue in every body's reach, and a very loose philosophical regimen is sure of bringing a cure along with it. I wish you would more particularly disclose in what instance you feel the want of it, and I will assume the office of a physician for the soul, and prescribe some of that medicine which I took from Plato when I was at the University[1].

"Constancy, in my dictionary, is steadiness and perseverance in a resolution once rightly taken. What can be the difficulty of whipping all seducing, straggling thoughts out of the mind, intruding upon a man's own happiness? For if

[1] It may be thought, perhaps, that sir Eardley might have recommended a better medicine for the soul than that of Plato or any Heathen Philosopher: But it must be considered that his son was at this time engaged in classical studies; that his Father had, at an early age, instilled into him the principles and duties of Revealed Religion, and was not now composing for his use a regular treatise of Ethics, the best and the only foundation of which is Religion; as has been clearly demonstrated in that excellent work of the Rev. Mr. Gisborne, "The Principles of Moral Philosophy investigated." But sir Eardley might naturally conclude that these principles would be fully inculcated by the discipline and habits of his College and of the University. He therefore applies himself to, and urges such topics, in addition to them, as are most likely to influence a young Student, warm in the pursuit of literature; but he seldom omits to enforce also a strict attention to religious duties, as may be seen in many parts of these Letters.

the resolution be rightly taken, your own felicity is the object of it; if it be not rightly taken, the sooner it is broken, the better. But remember, that to be humble is to be great, to be contented is to be wise, and to subdue the passions is to be good; and that habit is the best and surest friend to forward you towards the attainment of those great blessings. Read Longinus again in Greek, in Latin, French, and English: Rouse up all your faculties, and let your soul out to strive for the prize in the tilts and tournaments of literate glory; throw off all your chains, and struggle, without intermission, for that dominion over yourself, which will do honour to my memory when I cease to be

"Your affectionate Father."

In another Letter he says:

"You say you are without ambition; if you mean the ambition of being learned, and attaining that greatness and elevation of mind[m], which

[m] It has been suggested, that these expressions, and the frequent mention of the principle of Honour, may cause some readers to plead sir Eardley's authority in support of these principles and motives of action; and which, if taken nakedly by themselves, might perhaps have a bad tendency.

But it is submitted, that it appears from the context these expressions are always used in a good sense, and mean that fortitude and independence of spirit which enable a good man and a Christian to shun every thing that is mean and vicious; that the occasion on which they are used should be always

inspire a contempt of riches and of death, I am very sorry for it, because it is that sublime exaltation of human nature which fixes the attention of gods and men to its contemplation, and

considered, the character and situation of the person who uses them, and also of the person to whom they are addressed; and whether there are not other parts which expressly and sufficiently guard against any misconstruction. Now it is plain from many other parts of these letters, that the principles of honour were considered by the writer as subordinate to Religion, as derived from and as auxiliary to it, and as subject to the superior authority of its laws and sanctions. Even the Apostle St. Paul sometimes inculcates the same general principle, and a form of expression nearly similar: Thus Philippians, c. iv. v. 8. he says, "Whatsoever things are honest, whatsoever "things are of good report; if there be any virtue, and if there "be any praise; think on these things." And 2d Corinth. c. viii. v. 21, "Provide for honest things, not only in the sight "of the Lord, but also in the sight of men!"

Sir Eardley, in many parts of his letters, directly and strongly inculcates the duty we owe to God, to which he always assigns the pre-eminence; and no principle seems further removed from his head or his heart, than that of relying on human wisdom or human virtues, separate and distinct from our duty to God, as appears from many passages in these Letters, particularly from the following in page 99, where, after recommending the principles of Honour and Truth, he says, "Above all things, remember your duty to God; for without "His blessing, my love and affection for you will be as ineffectual to promote your happiness here as hereafter;" and in page 109, and in many other places.

It is hoped, therefore, that instead of there being any encouragement to pride and false honour in these Letters, they contain a strong antidote against both.

constitutes the only certain beatitude upon earth. It is a perpetual spring of joy, and the only source of free agency in life.

"If you mean by ambition, a desire of getting money for the gratification of pride and vanity, I most heartily rejoice that you are delivered from the very worst Tyrant that torments human nature. Every man, who has not a fortune from his ancestors, must acquire a maintenance for himself (and his family if he has one) by his own labour and industry. He may very laudably propose, both to advance himself and his fortune in the occupation he chuses; but he must tread on the stars in his own mind, and not rest his glory upon the pageantry of honours and riches. His felicity can and must arise only with certainty out of the consciousness of his own unspotted conduct, and his greatness out of the sovereign contempt he entertains of what the world calls grandeur, finery, and the painted embroidery of vanity misdirected."

To the same.

"February, 1769.

"You seem to be in a very improving society, and you express my own sentiments very distinctly, in giving so just an eulogium to the moral and virtuous part of Mr. Wren's[n] character; and indeed all natural parts and acquired know-

[n] Matthew Wren, third son of Christopher Wren, of Wroxall in the county of Warwick, esquire, a lineal descendant of

ledge, without honour and virtue, only serve to shew the deformity of human nature, instead of gilding and irradiating it. I say nothing of Mr. Wilkes, because Academies should never be disquieted with any political convulsions that did not happen amongst the Greeks and Romans; and I am sure I do not starve them in quantity or quality, by confining their speculations to a tract of two thousand years, dignified with such a variety of events, that when they themselves come to figure upon the stage, they will say with Solomon, "There is nothing new upon the face of the earth." I know nothing but what I see in the news-papers, and wish I was deprived of the sense of hearing another word of politics whilst I live. I believe I forgot to tell you that your brother, in the East Indies, had sent his brother Eardley a bill for 100*l.* which I have sent him. I received a letter from him, which is so honourably animated, that I entertain the highest opinion of him. He desires me to retain the extraordinary expences of his illness; and will give you one half of the remainder. His offer insures my re-

that eminent architect and excellent man, sir Christopher Wren.

On the death of this amiable and virtuous young man, some time after, he says, "a mind impregnated with such eminent virtues as you mention, is so rarely to be found in this profligate and licentious age, that the extinction of such a character is a public misfortune."

fusal; but, as a picture of his mind, I value it at the rate of the most brilliant jewel in the Mogul's crown. I have been at the Royal Exhibition, and with joy contemplate the rising state of one of the fine arts. We want nothing but the exemplars which Italy furnishes, to rival them in the last century, and quite to beat them in the present.

"The Russians have taken Azoph, which you will find at the embouchure of the Don (or Tanais, as it was anciently called) into the Palus Mæotis. If they had ten of our men of war there, the crescents that irradiate Constantinople, might very soon be at the bottom of the Hellespont."

To his eldest Son.

"23d October, 1768.

"I clearly perceive, from all your letters, that your mind is in a fluctuating state about returning to Europe, and I don't wonder at it; but I wish you to make it an article of your creed, that my love for you will never depend upon your success, but upon regulating your conduct by those principles of honour and virtue, which have already so eminently distinguished you from the Sons of this age, who consider their Parents' property, though acquired by their own industry, as an enemy's country, and plunder it accordingly.

"Your reflections both upon men and things I

read with the greatest pleasure, and your early acquaintance with business has certainly ripened your understanding, and set you five or six years forwarder than usual; but if your letters are opened, (as I am afraid they are) there are some strokes in them, which may leave a smart behind, that may provoke injuries in return; and I should not do my duty to you, if I did not let you into the result of an experienced and most consummate piece of Wisdom—"that nothing contri-"butes so effectually to a man's own happiness, "and to the advancement of his fortune, as the "converting of an Enemy into a Friend." It is an unpleasant task at first, and is never enterprised by a weak, disordered mind. But the master spirits of all ages have done it, and have owed their greatness, as well as success, to it. And if it be managed with dignity, it is so far from a servile submission and meanness, that it is the noblest effort human nature can make, because it is an approach towards Divine perfection.

* * "You seem to be under some apprehensions that Government here will take the East India Settlements into their own hands; but I am fully persuaded no such measure will ever be adopted. The nation receives too great emoluments from the trade, as it is now conducted, to endanger a diminution of it by so hazardous an experiment. I should imagine that the wisdom which always rules the King's administration here, will aim at

nothing beyond the obtaining from the Company a reasonable contribution to the public expences, in some proportion to the great increase of the Company's profits.

"I must now tell you a little of myself: I still continue in my Office, and am better in my health than I expected to be at my age. After the last Circuit I went into France, but was not three weeks out of England. I staid one whole week at Paris, with sir Sampson Gideon[a] and your Sister, and saw some fine things there—but am not sorry I was born an Englishman!

"As you came of age last March, which we all celebrated with the most unfeigned joy, I cannot help reminding you of the great danger of entering into any bonds, securities, or engagements for other people. Your acts, from attaining your age of twenty-one, have the same validity as if you were sixty-one; and friendship, under very delusive masks and disguises, frequently draws people into Securities which stick like a blister upon them, and leave them to pay for faults or misfortunes which are not their own. The incapacity of Infancy, which lasts till twenty-one, protects youth before that period, from being applied to, to enter into such engagements; but I have known more people ruined in the first five years of their majority, from their un-

[a] Now lord Eardley.

suspecting, generous good-nature, in becoming bound and bail for other people, than from any other source of indiscretion whatsoever.

"You have made me very happy by saying you will wait for a wife till you return; and as the knot can never be untied, I most anxiously wish you to let me help to tie it here with my own hands; for a good Wife is a most precious ruby, but a bad one is the scourge of God in the hands of a Fury." * * * * * * * * *.

"* * * has written to you a long letter; and next to his own children, I am persuaded you stand first in his affection; I wish you to keep up the most friendly intercourse with them.—Silly people will endeavour to create dislikes, shyness, and distance between you; and if I were writing to a person of a low, grovelling, and ignoble mind, I should press some prudential reasons against hearkening to any insinuations of that kind; but I know the greatness and exalted state of your mind too well, to think it will be influenced by any motives which would not affect me; and when I am satisfied, I am persuaded you will be so too. The blemish of birth is invisible to the eyes of eagles, which soar in circles round the sun, and is a visible object only to owls and bats, which fly by twilight.

"You decline all recommendatory letters, and as you rightly observe, Advancement must depend on a man's own character and fitness for

advancement. Recommendations may be useful in bringing a man upon the stage of life, yet the progress he makes must be greater or less according to his abilities and merit.

* * * "The continuance of your health, and your supreme felicity, both here and hereafter, will be the incessant prayers of

"Your most affectionate Father."

To his second Son.

"London, 14th March, 1769.

* * "I received yours of the 5th, with the verses by Mr. Jones[P], which are extremely elegant, in a true classical style, and will do the author great honour; the design is new-grounded, upon the principles of Morality and Virtue.

"There is a report to-day that Mr. Garrick is ill of the Stone, and acts no more this season; he will be a great loss to the elegant part of a theatrical audience. I am going to Belvidere with your Sister for the recovery of her health; this frustrates a secret machination I had, of stealing a course of Italian lessons here incognito; but your Sister is so much the object of my affection, that I postpone every consideration to the care of her health.

"I have read the first volume of Charles V.,

[P] Afterwards sir William Jones. From some of his beautiful Allegorical Poems, printed first at the Clarendon press, Oxford, in 1772.

and been vastly entertained with it: I shall like to read it over again with you when we meet.

"I hear that Mr. Wilkes is chosen this morning without any opposition." * * *

"Your, &c."

To the same.

"27th March, 1769.

"I have received yours, and am glad you have got an Italian master to your mind; but remember that the nature of the human mind will not endure a payment before-hand, and industry is very apt to ebb when it is not propelled by a prospective reward. * * "Volenti nihil arduum" was my motto when I first began the Law. I consign it over to you. * * Habitual attention is better than all the tutors in the universe; and I will answer with my head that you triumph over every difficulty."

To the same.

"22d June, 1769.

"I don't know what to think of your going any part of the Circuit with me; for though I should be very glad to have your company, yet I think the time will be more profitably employed at Oxford. I own it was my own thought, but I suspect that my affection suspended my judgment in that moment: However, send me word what you think of it, and my affection and judgment shall have another engagement. * * *

"I am extremely glad you are in the habit of seeing Foreigners; and if you will keep an account of their additional expence, I shall with great pleasure indemnify you.

"You will be glad to hear that my Tithe Cause[q] is over, and that the Plaintiff's Bill is dismissed."

To the same.

"26th June, 1769.

"It is too late in life for me to pass and re-pass the Alps in six weeks; and Mr. Strange, who is my Apostle, dissuades it. He has given me a sketch for a six months tour, which would be delicious; but unless I were to resign my Office, it is impossible to have such a space of time my own; and I wish to see your Brothers and you a little forwarder in life before I withdraw[r]."

To the same.

"October, 1769.

"I find you are in a course of study by the light of the Morning-star; and by a continuance

[q] This was the only Suit in which sir Eardley was ever engaged, and then much against his will; but he was Defendant, and the Bill was dismissed.

[r] It appears that the same motive which first induced him to accept the office of Judge, still operated with him to continue in it, his two younger Sons being under age, and not yet settled in business.

in it you may probably acquire a habit which tends to illuminate the mind more than you are aware of; and I am sure that no great progress in study was ever made without it. I am lame now and then, and shall be fit for nothing soon, but to go to an hospital.

"You judge very right to study your native tongue, and you cannot employ your time better than in acquiring a copious, profluent, and energetical way of writing and speaking it. * * * The periods in lord Clarendon are long: The fine writers of Sermons are not to be neglected, and translating the Orations of the Greeks and Romans, cannot fail of embroidering your language, and enamelling it with diamonds of the first water. * * I am very glad you take a dose of Greek every morning; I can't afford time for it at present, yet I have some thoughts of taking a week of severe study with you in College, but I would wish to dine always in the Hall, &c.

"I have not seen Bishop Warburton since you went; but I heard one of the finest Sermons preached at his lecture on Sunday last, I ever heard in my life. Lord Mansfield was there, and concurred with me in opinion."

To the same.

"6th November, 1769.

"On my return home to-night I found your letter, which surprized me extremely, as I had

quite laid the Fellowship[s] out of my contemplation, and did not so much as know you were even a Candidate for it: I do most extremely rejoice at the event, and congratulate you upon it; and it is a most singular satisfaction to me, that you owe your advancement to your own character, and to no interest derived through me. You have a home for ever secured to you, till you inflict a wife upon yourself, or exchange one emolument for a better.—I hear the duc de Choiseul totters on his ministerial throne, and that he is likely to find very soon, that there is more danger in the eyes of a basilisk, than in all the ill-will of the princes of the blood, or the noble resistance of a Hero[t], fighting for the liberties of his country!"

To the same.

"London, 31st Jan. 1770.

"I am very glad to find by yours of the 28th that you are dropt so easily into an academical life, and hope you will enjoy it the more for the contrast of this dissipated place.

"I have been engaged in my own Law business ever since the Term, and wish I was deprived of

[s] A fellowship of All-Souls College, to which his son was just elected.

[t] General Paoli.

the sense of hearing another word of politics while I live. The Archbishop of York sent me the Paper[u] he mentioned, which, by his leave, has been transcribed into a book. It seems a very sensible manual; and I hope, by pursuing it and Dr. Warburton's advice, to see you in a few years a Corinthian pillar, and not a mere post of the Church.

"I am very sorry to hear your friend Mr. Wren is so much out of order.

"Dr. Milles merits every return in your power; and ingraft it into your mind as a principle of Religion, Wisdom, and Morality, by all honourable means to conciliate the good-will and affection of every body.

"I am glad you take a dose of Greek every morning; I can't afford time for a tea-spoonful, but I have some thought, at Easter, of tasting a week's study with you at All-Souls. I could wish to dine in the Hall, and never to dine or sup out of College, as study is interrupted by such civilities: I would rise at six—go to chapel—breakfast and study till dinner—ride out in the carriage after dinner—and then a little converse, a crust, and so to bed. Can this be done without giving offence to any body, for I fear it has too cynical

[u] Dr. Drummond. "Thoughts on the Study of Divinity," since printed by his Son.

an appearance; and yet I wish to eat, and study, and pray, as the Founder intended[v].

"You judge very right not to burthen your memory; for reading too much is as bad as eating too much, and the weight disables the digestive powers from acting at all. I propose resuming Greek very soon; for I find myself going back much faster than you can get forward, and Habit shews her empire in nothing so much as in languages."

To the same.

"26th March, 1770.

"Pray look into St. John, and explain to me what is there said of the two Apostles not knowing at that time that our Saviour was to rise from the dead, when he had so often preached it[w]. *Studying* the Scriptures is to attain the faculty of explaining and reconciling such passages; and there cannot be a more useful disquisition, or more pleasing discovery: Unless the doctrine of the Resurrection be clearly established, one great pillar of virtue and piety is shaken to its foundation."

[v] In another letter, he says, "Send me word if I can pay for every thing, or battel, as you call it, in your name, which is the same thing, for I shan't like to be treated."

[w] His Son was at this time studying Divinity, with the view of taking holy orders.

To the same.

"4th April, 1770.

"I have received yours of the 29th March, and if some able Commentator, living or dead, did not guide your hand, you will be a great Christian hero, and will tread under your feet the Deism, Atheism, Heresies, Blasphemies, and Infidelity of the present age. I do assure you it gave me great pleasure to read your letter, which certainly speaks materially to my question, and removes the objection. The bishop of Gloucester has sent me the first part of his Plan of Study, and I will send it you the first opportunity.

"The track of your studies seems perfectly right; but don't overweight yourself, and be assured from the experience of five and forty years, that the gloom of to-day will be the sunshine of to-morrow.

"I am glad the Paper has found its way to you, as, if it had fallen into improper hands, it would have been printed, and I should have been reproached for my negligence by that inexorable tyrant I fear the most—my own Conscience."

To his youngest Son.

"30th March, 1770.

"I feel myself in a gradual state of decay, and have thoughts of devoting the remainder of my life to that peace and quiet, which are suitable to

threescore, "the world forgetting, by the world forgot;" and when I am forced to walk on foot, perhaps my legs may not be so torpid and inactive as they are at present. One of the comforts to be found in such a state must arise from seeing my children industrious, and conducting themselves with propriety in their several Professions; and I have the greatest reason to hope, from all their dispositions, that I shall enjoy that comfort in its fullest extent. Your brother is at All-Souls, leading the life which of all others my soul pants for—sequestration from the cares and vanities of life, and a cultivation of the human understanding. May God grant you success in the several roads you have taken, both equally honourable and useful to the community; and which, by sobriety, diligence, and a conscientious discharge of your duty, equally lead to the attaining of the end to be kept for ever in your eye; a comfortable subsistence in this life, and the salvation of your souls in the life to come!—I am much obliged to you for what you say of suffering for me; but I most anxiously hope that your animal and mental powers may increase, in proportion as they decay in

"Your most affectionate Father."

To his eldest Son in the East Indies.

"1770.

"I rejoice that you bore up so manfully against the misfortune of the robbery, though I have re-

peatedly assured you that my affection for you will be ever uninfluenced by success or failure; and you will find, by all my letters, that my leaving your stay or return entirely to your own free choice, is from a conviction that you, and you only, can be the best judge of the propriety of it.

"I concur with you in thinking there must be great violence done to the temper of an injured man, to convert his enemy into his friend; but it is a noble victory when it is achieved, and gives the most pleasing sensation that a virtuous mind can feel, because it is a triumph over all those troublesome passions which anger excites, and which are never gratified without repentance. I am, perhaps, too great a bigot to this sentiment from experience, because I was most essentially served by the only person from whom I ever received ill-treatment, and it was at a distance of five and twenty years that it happened: By never shewing or feeling the least resentment of it, and walking humbly both before God and man, the hand which gave the wound applied the remedy; but, independently of all worldly interest, human nature never approaches Divinity so near as when it "forgives;" and a converted enemy frequently becomes the warmest friend.

"I wrote to you very fully on the subject of Matrimony, by one of the last ships; I find it is considered, by all who have been in India, a most

important and hazardous step; but as you are the architect of your own fortune, you have certainly a right to controul it as you like, and therefore I release you from all promises on that subject, and leave the disposal of yourself in your own hands, as you request; and if you change your state, I most devoutly wish you a profusion of beatitude in it.

"Mr. Skinner has brought me the sword-handle, which is very beautiful.

"I still hang on in my Office; but my sight, hearing, and memory, begin to fail me. * * *

"Your, &c."

To the same.

"28th December, 1770.

* * * "You refer to another letter for an account of your new Appointment[x], but no such letter has been yet received. I shall rejoice to hear that you find the strength both of your body and mind equal to it; and remember, that the more you are exalted, the more circumspect and cautious you must be; for envy empties all her quiver upon ascending merit; and nothing turns the arrows off so surely, as an humble and affable deportment. I have in my own case experienced the utility of it, and that it carries very moderate natural and acquired abilities, far beyond their

[x] In the East India Company's service.

common and ordinary flight. I grow an old man, and therefore I cannot help advising, which is one of the symptoms of old age; but you must impute it to its true source and motive, an anxiety for your good. I hold up pretty well, but my sight, hearing, and apprehension gradually decrease; and I shall leave my office very soon, and lead a retired life, which has been my wish ever since the first dawn of my reason; and I think forty years' professional pains and labour will well entitle me to a few years' recess, and that no part of my family will repine at it.

"I am very sorry to tell you, that this nation is of late grown so licentious, and deals abuse out so liberally upon the characters of all ranks and degrees of men; and there is such a malignity of temper, and avidity for detraction and obloquy, as I am afraid will end in destroying that subordination to law and government, which is the true and only source of the happiness of a people. The scenes of anarchy and confusion exhibited on the Asiatic stages, particularly in Persia and Indostan, are so frightful that I dread all measures which have a tendency to introduce them here; and nothing seems to move so powerfully towards that end, as indisposing the minds of men to the laws and government under which they live[y].

[y] The sentiments contained in this and the following letter on the subject of law and civil government, are almost pro-

Irreligion, prophaneness, and sensuality of every kind, have tainted the mass of the people in and about this metropolis; but I trust and believe, that the people of England in general are too sensible of the blessings they enjoy, under this well-poised constitution, to swallow the poison which pamphlets and news-papers administer every day to the dissolute and profligate part of the community. I am persuaded the principles of religion, loyalty, and patriotism (by which I mean supporting the laws and constitution) are too deeply engraved upon your heart, ever to be erazed by any motive or consideration whatsoever: and therefore have not written upon this subject to you from the least diffidence of your sentiments or conduct, but really to inform you of the very disagreeable state of things, from the turbulent humour of the people in this town.

"Your brother is studying Divinity at Oxford, and your uncle has been so good as to promise him the living of Weston, about 150*l.* per annum: If he can be contented with it, he will be happy; and if he cannot, millions of worlds will not fill that bottomless pit, in which ambition and avarice bury their votaries!

phetic of the dangers to which not only this country, but all civil society, have of late years been exposed. But there is "an elastic spirit in this Constitution," which, with the blessing of God, has preserved it!

May you ever enjoy a serene, undisturbed mind, and may the consciousness of your own rectitude give you the beatitude which it has always given to your

"Most affectionate Father."

To the same.

"28th February, 1771.

* * * * "I found the faculties of my mind, as well as my sight and hearing, so much impaired, and the general state of my health so unequal to fatigue, that, upon the 24th of last month, the King was most graciously pleased to accept the resignation of my office of Chief Justice of the court of Common Pleas; but, being to continue a Privy-counsellor, I shall attend there occasionally, when my health will permit it; and I already find that the rest and quiet I have had for the month last past, and the regimen I am now in (which I could not before attend to) have a great effect, and will most probably, with the blessing of God, enable me to live many years in an easy tranquil state, free from much pain; and as I am now in my sixty-second year, and have been in business all my life, I have executed, what I always meditated—a timely retreat. The King, as a mark of his approbation of my conduct in his and his grandfather's service, did, of his own accord, and without the least application from me, or most remote intimation of a wish or expectation of any

remuneration, order a Grant of a Pension to be made out to me, of 2,400*l.* per annum, which being subject to many taxes and other drawbacks, will produce net about 1,800*l.* per annum; and by such a noble provision, I shall not be obliged to contract my mode of living so much as I must otherwise have done.

"You know my aversion to politics so well as to believe me when I say, that I have nothing to do with party contests of any kind whatsoever; but I cannot help expressing my joy upon your account, as well as that of the nation, that our apprehensions of a war with Spain are now over, an accommodation having been made this month. A war with France must inevitably have followed a war with Spain; and I am persuaded, that an attack upon our East India settlements would have been the first object in the direction of French hostilities. * * * *

"The greatest joy of my life is to hear from you, and therefore pray do not omit it when you have an opportunity. May the Great Being, who presides over all, take and keep you ever under his immediate protection, and return you safe, at his appointed time, to your

"Most affectionate Father."

As the next letter, from sir Eardley to his Son in the East Indies, refers particularly to one received from him in this interval, it is hoped it

will not be thought unseasonable to give an extract from the latter, which will make it better understood. At the same time, the Editor confesses it will gratify his own feelings not a little, to have an opportunity of recording the talents and humanity of so excellent a servant of the Company, and the great merit and piety of so exemplary a Son.

From Robert Wilmot, esq.
To his Father, sir J. Eardley Wilmot.

"Moorley in Jesser, 25th Aug. 1770.

"I was greatly delighted by the receipt of my dear Father's letter, bearing date in November last, since which I have got several others; but at the end of the season I shall send you a particular account of every one that arrives; I have not received those by Mr. Vansittart, for it is imagined the Aurora is overtaken by some very dire calamity. Accounts have reached us that she left the Cape seven or eight months ago, since which we have not had the least intelligence of her, though within two months ships are come into our haven from every part of this quarter of the world. Here, was I inclined to moralize, I should say, 'Tis the intimation of Providence, that those possessed of moderate fortunes encounter not perils in pursuit of more; that men, conscious of their own rectitude and virtue, should disregard

the quick-circulating voice of calumny, nor risk their existence for Fame, which, after all, is in the power of their enemies to tarnish.'

"I am much pleased you possess a good portion of health; that I may salute you, ten years hence, in the same state, is the first wish of my heart. The safe delivery of my Sister is very grateful information, as also the election of my brother to a Fellowship of one of the Colleges at Oxford; it reflects on him both honour and merit. I am very sorry to learn of my brother Eardley's relapse; he is just at the crisis of life when the constitution begins to frame itself; frequent indispositions at this season are sometimes like a blast to the bud, which either cramps its growth, or totally destroys it. The good tidings of his diligence, and the well-founded hopes of prosperity in his vocation, are exceedingly pleasing, and a new incentive for me to good and honourable action, as also to sharpen my attention to the main chance; for as I am the eldest of your Sons, it is certain that I should struggle incessantly to keep pace with my younger Brothers in every virtue and every improvement. In my letters of last year I wrote you fully on the theme of Matrimony; and as I cannot be blest with the supereminent advantage of your experience, nor have the nature of my choice analized by your penetration, I have no doubt but the ensuing season will bring me your permissive mandate—that is,

to leave the disposition of myself to my own discretion, being, as you observe, the architect of my own fortune: the base is now laid; and as you say, it is but just and reasonable that I should be allowed such an Artist as I think will soften the anguish, attemper the labour, and conduce to fabricate the edifice. As I am not ambitious of a palace, doubtless seven or eight years will complete the work; my aim is a sufficiency, moderately to partake the pleasures of life; all beyond is vain and futile, and oftener destroys than contributes to happiness. I can no longer delay to express my best thanks for your obliging compliance respecting the Pictures, though not yet arrived.

"I mentioned very largely, in May, the nature and particular expectations of my appointment to this place. The wisdom and expediency of this plan does infinite honour to Mr. Verelst, the projector of it, and most cordially do I wish he was here, to have it enforced in every branch; it is pregnant with emolument to the Company, and reputation to the English, since the first objects are to shield the poor—tranquillize the wretched inhabitants, almost expiring under the burden of imposition—to manifest a due indignation of those oppressive maxims that influenced the Oriental Divans, and the refined cruelty of their Commissaries; in short, to remove every abuse—to cut a channel through corruption, partiality,

and passion, that the rivers of justice and equity may flow through the Provinces. The accomplishment of these ends will raise the Revenue on the most permanent foundation; and this, in my opinion, is the true epoch of the Company's prosperity. Indeed in 1766 there was a mighty augmentation of the Revenue; not by a fair valuation of the country, but by the increase of extortion. It however answered the purpose of the then Ruling Power; it lessened the year after, as might be imagined, and succeeding years dwindled in proportion.

"As soon as I am unshackled, I shall gain the Company an addition of 10,000*l.* per annum, to the little Revenue placed under my management; I mention this, not to arrogate merit, as nobody could have missed it; in the space of two years, I hope to raise the whole under me fifty per cent. Mr. Graham, a senior servant, and an extreme clever man, has already increased the Revenue under him seventy-five per cent.; for the restraint is only on a moiety of the Supervisors. Moderate advantage, at this period, will testify the excellency of the plan; for this country has been, and is, afflicted by a famine which has carried off incredible numbers. I have never moved without seeing the piteous effects of its rage: Children have been seen in the arms of their dead Mothers, and other sights which disturb me with very gloomy reflections.

"Should the war between the Russians and Turks ultimately draw us into one with France, destructive as war is, I should consider it as a fortunate circumstance for Old England: it would raise the power of the kingdom by assuaging the madness of party, and engage the attention of clamorous people, which seems to have been of late employed to subvert that liberty, which, it is urged, they are contending for. I sometimes meditate the residing in the South of France; for by the accounts I read of the height and eagerness of party, I am made apprehensive that the catastrophe of English security is nearly approaching.

"This letter will be delivered to you by Mr. Ellis, a wine-merchant, who desires I may send out my privilege annually in a chest of claret: though I may not want so much, it is ever greatly in demand here. Mr. Ellis attended me in the long sickness that attempered me to this climate, and I can do no less than comply with his wishes on this occasion.

"It is my Mother's turn to hear from me next, as I shall write to both alternately. * * *

"Be assured I shall ever strive to approve myself worthy the gift of Nature, the being your Son,

"ROBERT WILMOT."

To his eldest Son in the East Indies.

" 5th April, 1771.

* * " I received yours of the 25th of August. We are most happy to hear you are well, but are all in the greatest concern for the alarming situation of the Aurora, and I find it is believed here she is lost—a sad and terrible event! Your remarks upon it are very just.

" Your new office[a] must, at first, have been disagreeable to you, and the miserable objects, which famine and distemper present to your view, must have greatly added to that uneasiness; and, according to the account you give of it, it calls for the exertion of every movement of the human understanding, and every benevolent quality that warms a human heart. I have a confident faith, from the spirit of all your letters, that the Company will find an able and an honourable servant in you; that your acquisitions will be the fruit and reward of your virtues; and that, " before I depart hence, my eyes will see your salvation" in your native country!—I have already informed you, by the ships of this season, of my retreat from all business, and of the King's goodness to me; and from the ten weeks experience I have this day had of retirement, it is the state of all others which best suits the colour of my mind,

[a] In the East India Company's service.

and my heart is eased of much "perilous stuff," which always lay upon it: it gives me time to look into my account with Heaven, and to prepare for that great Audit-Day, when we must all give an account of "the works done in the flesh;" when meekness and humility will be exalted, and all the pomp, place, parade, precedence, and pride of this vain world, will be considered according to their intrinsic worth. As I am upon so interesting a subject, let me exhort you to read, with the greatest attention, both the Old and New Testament, and to receive the Sacrament whenever you have an opportunity. You will find your mind extremely becalmed by it, and every tumultuous passion bridled by that firm belief of a Resurrection, which is so evidently marked out and impressed upon mankind by Christianity.

"It will entertain me extremely to read some of your translations out of Persic: I know there is a great fund of sound morality and policy in the Asiatic philosophical and political books; and their poetry is sung by nightingales, in "bushes of roses;" but to "speak" a language, I have observed double Translation is the most useful exercise, and I have erred extremely myself in neglecting it; for though I understand two ancient and two modern languages, I can speak none of them.

"I find you are apprehensive of the catastrophe of English security; and if an opinion was to be

taken from pamphlets and news-papers, your apprehensions would be better founded than I hope they are: but falsehoods, and groundless malicious invectives swarm in every line of them. The best political, as well as natural constitutions, are subject to fevers; but prudence and the bark conjure them down again. I foresee nothing but a few dark clouds, which are always flying under the bright azure sky of all free governments, and rather tend to purify the air than to corrupt it: and we are blest with a King, acknowledged by all parties, ranks, classes, and colours of men, to have every virtue which dignifies human nature; and as we are told both by sacred and prophane History, that whole Nations have suffered for the iniquities of their Kings, I hope the iniquities of this Nation may be pardoned for the supereminent merits of its King.

"Never turn your thoughts towards any other kingdom; for whatever transient storms may arise here, there is an elastic spirit in our Constitution which will preserve it; and though many other climates are pleasanter, yet no part of the earth[a]

[a] In a letter to the Reverend H. Michell, vicar of Brighthelmstone, 31st March, 1779, he says:

"Our public affairs look much better than they did all over the globe. The purity of the Christian religion is certainly better preserved here than in any other country; and though the transgressions of individuals are numerous and great, yet I trust in God, that our enemies will not be permitted to

is, or ever was, blest with a Constitution so admirably fitted and adapted to securing the religious and civil rights of mankind, or where the liberty and property of the Governed were so anxiously attended to. Now I am quite disengaged, I often wish myself with you; and if it was not so very long a voyage, and such a fiery air, I should certainly venture at it; but I must wait the time appointed by God for your return, and weary him with prayers for your safety!"

To his Son at Oxford.

"1770.

"I was most excessively concerned to hear by yours, that you had been so severely attacked with a sore throat; but as you say your fever has in a great measure left you, I hope to have a good account of you to-morrow; and I shall be most unhappy till the post comes in, for you judge very rightly of the pain we all feel for you; but more particularly a Father warmed with the tenderest affection for you, and truly sensible how little you deserve the affliction you suffer: but I trust in God, that your Religion and Philosophy will ever

triumph over us, and to annihilate a Constitution, the best calculated to advance the temporal and spiritual happiness of a people, that ancient or modern prudence has yet introduced upon the earth!

"Your very sincere, &c.

"E. Wilmot."

support you in the visitations of Providence, which are frequently meant as the kindest admonitions of the imbecility of human nature! * * *

"All join, in most ardent wishes for your recovery, with

"Your most affectionate Father.

To the same.

"6th July, 1770.

"I hope my letter reached you time enough for you to present a Petition[b] to the Archbishop of Canterbury, as I find Mr. Justice Blackstone concurs with the Warden as to the propriety of it, and your not doing it might look like pride, which of all the vices that disgrace human nature, I do the most detest, as the most unbecoming a gentleman and a Christian; and indeed I am so much indebted to humility for my own advancement, that I should be the most ungrateful person in the universe, if I ever sacrificed myself, or encouraged any of my children to sacrifice, an atom of incense to that insolence and haughtiness which disfigure a great genius, and totally damn a little one. It would be improper in me to speak to the Archbishop, and I am perfectly satisfied, that whatever he does will be just and right; a

[b] This was in consequence of an Appeal to the Archbishop of Canterbury, as visitor of All-Souls College, his son having been elected Fellow of that society, in preference to one who was of the founder's kindred.

placid submission becomes a man that has been dipped in, or even sprinkled with, literature. If you must quit All-Souls, you must reconcile yourself to the disappointment by my medicine of an interposing Providence, who knows our ignorance in asking, and always provides better for us than we deserve. I am perfectly satisfied, that whatever the Archbishop does will be right; and you should always think yourself as much obliged to the Warden and Fellows, as if you had lived half a century with them[c]."

To the same.

"6th Nov. 1770.

"I have this moment received yours, and very cordially congratulate you on the wreath of glory impending over you; and you see by the event[d]

[c] The Appeal was determined in favour of the founder's kin; and his son, being the junior of the election, prepared to quit the College.

[d] There being only one vacancy this year, and only one Candidate of the kindred of the founder, viz. Mr. Montagu, of University College, son of Adm. Montagu; and the Fellows having expressed a wish not to part with his son; Mr. Montagu, out of friendship to him, and of compliance with the wishes of the College, waving his own claim to their suffrages, suffered his son to be the only Candidate, who was thus unanimously elected, in a manner that did him the greatest honour. Mr. Montagu was elected the following year, is now D. D. and senior Fellow of All-Souls College.

how much more honourably you succeed now to a Fellowship, than by a Preference, which would have been imputed to interest with the Archbishop. I received your letter with the joy which will ever accompany every good fortune attending you; and I cannot sufficiently admire the conduct of Mr. Montagu, to whom you seem to owe your success; and wish to render him and his family the tribute of praise, which so friendly and disinterested a mark of his good-will towards you deserves.

"Present my compliments to Mr. Jones, with many thanks for his valuable Book:

> ——————"Gratissima semper
> Munera sunt, Autor quæ pretiosa facit;"

or some such line, runs in my head. I have received two Books of Drawings and Paintings from your Brother, with many characters; and when Mr. Jones comes to Town, I should be glad if he would call upon me, and look at them.

"We were last Sunday at Mr. Verelst's: he speaks very handsomely of your Brother, who has the superintendency of one of the eight Districts of the Country, demanding the greatest integrity, wisdom, and diligence; and his fortune in the East must depend upon the acquittal of himself in this employment."

* * * * * * * * *

Here occurs a considerable chasm in the correspondence. In the mean time, sir Eardley received an account, in the Spring of 1771, of the short illness and death of his eldest Son in the East Indies, the November preceding, which affected him most severely.

In this interval likewise, his second Son had begun to study the Law; and having asked his Father some questions which naturally arose in the commencement of that Study, he received from him an answer, of which the following is an extract.

To his second Son.

* * "It will be very necessary for you to travel over all the fairy ground of a Recovery, that you may know how to talk like a Necromancer about it; but the sum total is, that men were very uneasy at having their Estates so chained down by the Statute "de Donis," that they could not sell them; and the Crown was desirous of removing that chain, in order to break the great families to pieces, which had so frequently given them disturbance; and therefore, in the time of Edward IV, the Lawyers, with their wand, raised a fictitious person, or rather a friend with a fictitious right, to claim and recover the Estate from the

Tenant in tail; and the Recoveror thereby slipt out of his chains, and got the absolute dominion of the Estate; and it was certainly an ingenious contrivance for those rude times, borrowed from a real dispute.

" Suppose I gave you an Estate in Tail, whereof I was in possession, but without any title. The real Owner brings an action, and recovers the Estate; the Entail does not affect the Estate in the hands of the real Owner, who recovers and has the whole fee; so the friend of the Tenant in Tail is presumed to recover the Estate by a prior title, and consequently has the whole fee unaffected by the Entail; and, to sum up the matter in still fewer words, the Legislature, in Edward the First's time, made Estates Tail unalienable, and the Judges in the time of Edward IV. invented a mode of eluding that Law.

* * * * " Mr. Jones made me a visit the other day, and thinks his Grammar will be ready in a fortnight. I desire my most respectful compliments to the Warden."

To the same.

" 27th September, 1771.

" I pray all good things, first to you, and then to the Warden and Fellows of All-Souls[e]. May

[e] This letter was written after a visit to All-Souls College, where he attended prayers, read in the library, and dined in

the light of the Gospel illuminate their chapel, and the master spirits of all ages dance every night in their Library!

"I regret my departure as much as it can be regretted; for there is such an earnest of the state of heaven in the undisturbed quiet of a college, and that perpetual triumph which study and contemplation give over pride, vanity, and ambition; and it is so disengaged from all worldly cares and avocations, which fret the mind and cloud the best of tempers, that it is impossible for a soul, believing in Christ, and wishing to attain the bliss which that belief promises, not to pant after a course of life, leading more directly to it, than any I have yet essayed. The Warden[f] has a gentleness of manners about him which I admire in all, but more particularly in a messenger of peace. I should like to spend my whole vacation at Oxford; but you will find, when it is too late, that it will not be always in your power to do as you wish to do;—that species of beatitude is appropriated to the fellows of All-Souls[g]!"

the hall, &c. as every body else did. In another Letter he says, "I envy you the gloomy shade of a College: my kind service to all my fellow-collegiates."

[f] The honourable and reverend doctor Tracy.

[g] He left a dozen large Greek Testaments in the chapel of the college, for the use of the society, who ordered the following Inscription to be inserted in them:

To the same.

"I have read over your letter very attentively, and I applaud you extremely for the careful survey and strict examination you have made of your legal situation. Nothing contributes more effectually to a proficiency in any Science than a revision of the progress already made in it. I perceive you start at the "acies oculorum," that will be soon upon you; and your apprehensions are well founded; for you will certainly be called forth sooner than could be wished, and it may perhaps be most prudent to postpone your call to the Bar.

"You know my sentiments on the life to be led at the Temple for the attainment of legal knowledge. Three years severe Study lays in a competent stock to work upon, and Practice alone will fashion and instruct you in the management of it; for though gigantic parts will give great superiority, yet I have never known, nor heard of, great excellence in the knowledge of the Common Law, without great pains taken at some time or other by the possessor of it.

Pro singulari suâ
Erga Chichleianos benevolentiâ,
D. D.
Honoratissimus & ornatissimus vir,
J. Eardley Wilmot, eq. aurat.

The Law[h] is a mistress not to be won by slight, transient, "passagere" visits, but by a steady, unremitting pursuit, and an undaunted perseverance in the attack, against all denials: ambition and necessity are the great supports of it; but if you cannot get one of the first prizes, "honestum est in secundis tertiisve consistere," and the powers of your mind are certainly equal to every part of the study, nay even to the subtleties of it; but you must not expect, that refinements, not drawn from the natural reason of man, should remain imprinted on your mind in the same large, legible characters as the precepts of morality. Nobody expects that a young man, who has not been in precedent practice and habits, should "emane" a Lawyer in the first instance. Great allowances are made, by the Bar and the Bench, and an Audience; and even ignorance escapes, under the veil of a presumed modesty, which good-nature throws over every man, (who is not a coxcomb) in his novitiate. You complain of an "inedia verborum:"—the best receipt for that complaint, is reading English books of the most classical kind, and a total abstinence from all other languages, except when

h There is great resemblance between these sentiments and those of sir Matthew Hale, who said "that the Law will "admit of no rival; nothing to go even with it."—Vide Seward's Anecdotes of distinguished Persons, 2d volume—sir M. Hale; where the Reader will find many other excellent observations on the same subject.

you turn them into English, or rather paraphrase them. I have often known too much Latin and Greek, or French, almost extinguish the "flumen" and "copia dicendi" in English; but habituating yourself to correct modes of thinking, will generally produce clear and luminous modes of expression: if the spring be clear, the stream will be so too, if other languages do not check or disturb it, or if too great an anxiety for a choice diction do not interrupt it. Put-case clubs, and seizing all opportunities of speaking upon all subjects you understand, will unlock the storehouse of words, coin your ideas, and give that currency and profluence which you at present want. The advice given to St. Paul should be ever in your thoughts:

"Μὴ φοβοῦ, ἀλλὰ λαλεῖ, καὶ μὴ σιωπήσῃς."

i In another letter he says, "To speak clearly you must think clearly, and habituate your mind to an arrangement of ideas on every subject you contemplate: I know that "profluens oratio" is given by nature to some men; but I have known it often acquired; and the best mode of acquiring it is by study and application to make yourself master of the subject, and practice will furnish words and expressions." And again, "The mode of acquiring fluency in the English language should be one great object of your attention; and I consider that part of your study as a species of Music between the Acts, and lucid intervals, for the recreation of your mind, and for relieving it from the weight of the Law. The great end must be kept ever in view, viz. six hours severe application every day, "quod nec Jovis ira nec ignis" ought ever to avert or vary."

"There are two things you must inviolably adhere to in any plan of Study: 1st. Not going out in a morning, except from inevitable necessity. 2dly. Not keeping your chamber door open, which is worse than going out; because it exposes you to the idleness and impertinence of all who do, and does not even leave you to the choice of your own company. Six hours in the morning appropriated to Law, with a Voluntary played upon it by me in an evening or before dinner, for one hour, would impregnate your mind so thoroughly, that it would keep the odour as long as you chose to practise it, either isoterically or exoterically; for I know from experience, that the doses I took of Lord Coke, about forty years ago, operate to this day.

"The song to Virtue, in Comus, is equally applicable to Law:

> "Who wins her height must patient climb,
> "The steps are peril, toil, and care."

On the subject of Education, he thus expressed his sentiments to one of his family:

"The sooner my grandson goes to school, the better; the longer I live, the more mischief and misery I see from missing an education: for happiness does not depend upon fortune, but upon a mind well disciplined in youth, and capable of

finding employment and amusement within its own reach, independent of all extraneous resources.

" Obedience is one of the capital benefits arising from a public Education; for though I am very desirous of having young minds impregnated with classical knowledge, from the pleasure I have derived from it, as well as the utility of it in all stations of life, yet it is but a secondary benefit in my estimation of Education: for, to break the natural ferocity of human nature, to subdue the passions, and to impress the principles of religion and morality upon the heart, and give habits of obedience and subordination to paternal as well as political authority, is the first object to be attended to by all schoolmasters, who know their duty and do it."

To his daughter, lady Eardley, at the commencement of a new year.

" 2d January.

* * " The new year could not have been ushered in more agreeably to me than by a letter from you, animated with that spirit of gratitude and filial piety which have ever endeared you to me; and I most devoutly pray that you may always find the same happiness and comfort in your children that I have found in you. May Angels and Ministers of Grace hover perpetually round

you all, and keep you in health and happiness, doing your duty to God, and loving one another!"

To the same.

"Wickham, April, 1777.

* * * "The care of your Son's health, which is most likely to be secured by a plain, simple diet, is the first great object. The next is a clear, articulate, undisturbed utterance, and a constant habit of reading loud and distinctly. The third, and most material of all, is disciplining his passions and regulating his mind, and impressing such religious principles upon him as the tenderness of his age will endure, and enlarging gradually upon those subjects as his reason opens to receive them. I lay great stress upon this part of his education, because I am sure his future felicity, in this world as well as the next, will greatly depend upon a due and masterly execution of it; and the greatest care must be taken not to tire and disgust him with instruction, and thereby give him an inattention to his duties both to God and man, or at least a dislike to conversation upon those subjects. It should be managed with the same politeness, civility, and address, which Mr. Hawkins would use in the bleeding or inoculating a Beauty.

"Without Religion, the human mind is an 'unweeded garden; things rank and gross in nature

possess it merely;' and if the deadly night-shade once overshadows and spreads its baneful influence over it, farewell tranquil content, and all those pleasing feelings, which neither riches nor power, but virtue only gives!'

"Your Son answers the character you gave of him. Time, accidents, and revolutions of temper, disappoint the best-concerted plans; but at present there is a very fine prospect, and I heartily wish you both joy of it.

"Your most affectionate Father."

To his youngest Daughter.

"Hereford, 19th March, 1762.

* * "If I could be angry with you for any thing, it would be for not writing to me sooner; but my own heart always makes excuses for your silence; and your wishing to improve in your music has so disarmed me, that I can only thank you for your letter. You will judge how far you will like to proceed in music, because it must be studied under different masters, to attain any degree of perfection in it: but don't mistake love of music for a liking to learn it; pleasure waits upon the first, but there is a great deal of labour and industry required to excel in performing it: and if painting strikes your fancy more forcibly than music, I shall not have the least objection to your discontinuing one science in favour of another;

but as you seem to like staying at home, I am extremely desirous of securing to you some amusing domestic employment, and adding one polite science and ornament to the more substantial virtues, which, I know, will ennoble your mind.

" We could not come the common road from Monmouth, and were obliged to go six or seven miles about. I do not set out to Shrewsbury till to-morrow morning, having been kept by a Cause of a very uncommon kind, relating to the marriage of a very pretty young lady, to a gentleman who has never seen her since her marriage, which was thirteen years ago: She was but thirteen, and the young man eighteen, when they were married. The lady's father and mother were both present at the marriage, which was in a bedchamber: they were immediately put to bed together in their clothes, with the room full of company, and after the quilt was thrown over them, they got up; and he went home to his mother, and his mother and other people have kept him from coming to his wife ever since.

" I hope you have not made any rash resolution of never going any more to the play or opera. I shall go to Osmaston, and shall leave it in Easter week; and, if your Brothers did not attract me, should see you much sooner."

To the same.

"Wells, 11th Aug. 1765.

"I have the pleasure to tell you, that we are got a hundred and twenty-five miles nearer to you than we were last week; and we are always in better humour when we leave the West, and turn our faces towards the rising sun. I had only three prisoners to try at Bodmyn, and am not likely to have much business here; but Bristol threatens me extremely, and I am told there are two Causes which will last twenty hours.

"We saw sir Christopher Trieze at Bodmyn: he appeared to us in a profusion of venison, old hock, and claret, and soon after visited us himself. The prince of all the male beauties dined with us there, Mr. Pitt, about four and twenty, and one of the Lords of the Admiralty, very well bred, polite, and sensible, and, if any defect, rather too delicate.

"I am to lose my colleague, Mr. Justice Aston, here, and to go to Bristol by myself, which is a grief to me, for there never was a more able judge, nor a more learned man; and he has left such a track of praise and glory behind him, as would have raised my envy, if that poisonous weed had grown in my mind; but of all vices which degrade human nature, I have always thought it the most abject and inglorious; and I have more pleasure in seeing, hearing, and giving

applause, than in receiving it: the utmost humanity can aspire to is to exert endeavours to attain perfection; the success of those endeavours is not in our power, but must be greater or less according to those natural endowments which are the gift of God, but which human pride and vanity are but too apt to put down to the account of their own personal merit. I often contrast my Colleague with a friend of mine in . . . , who stretches out his arms, holds back his head, claps his wings, and crows over the infirmities of his friends.

"I find by your Mother that the turban has no grace in it, and that she thinks your picture will be much better without it; but it would be an outrageous violation of taste to put an English cap with an Asiatic robe, and therefore I recommend no Coeffure at all to be put on the head, and to have the hair thrown about, either with or without flowers, braided or not braided, as the Turks wear it. I have no more time than to say how much I love you, and am

"Your affectionate Father."

To the same.

"Stafford, 29th March, 1766.

"It was a great pleasure to me to hear you had been at the Opera, and liked it so well. I cannot think on the subject of Music without anxiously recommending to you a double degree of dili-

gence this year, because it will most probably be the last in which you will receive any instruction from a master; and the great skill in this life is to improve and cultivate that talent which is naturally most eminent: and with pains and application you would acquire the taste and judgment of Mrs. ....; though your voice is of a lower pitch, yet it would be sweeter: and as you have vanquished the most difficult part, you would find a joy in perfecting yourself; which the great artists in all arts and sciences of all times and in all places, universally profess to exceed every other gratification.

"There was no assembly at Shrewsbury, because it was Passion week; we were twice at church yesterday.

"Sir William Wolesly made us a visit this morning, and I dined upon fish and pancake, and such pike and carp as would feast the Pope and all his Cardinals."

To the same.

"Norwich, 11th Aug. 1767.

"I had a joy in hearing from you, which always accompanies every testimony of your affection for me; and I should have written from this place, if I had not heard from you; for I think it a very inauspicious circuit without an epistolatory correspondence with your Sister and yourself, as

I think it has never been omitted since you came from school; and I please myself with the idea it has been of use to you both, having always interspersed such hints as my age and experience suggested might be useful, and which your good dispositions and sagacity have always adopted and improved; and I am very amply rewarded for my attentions to you both, in having observed that you love one another as well as I love you; indeed my affection has always been so equally divided, that in losing your Sister I did but lose just one half of the comfort I have always received from the dutiful behaviour of you both. I am satisfied you will always exert your utmost endeavours to deserve every return of comfort which my indulgence can administer; and I cannot give you a greater instance of it, than by wishing to lose you whenever the hour of your life is at hand which must determine your destination; and, to render you worthy of happiness, let your duty to God be the first, the capital object of your life, and then all good things will be added unto you; and above all other accomplishments, let courtesy, affability, and attractive address to all, irradiate your person, and conduct your understanding; endeavour to please, and you will be sure of pleasing; and as music is your natural talent, second the gift of nature by an assiduous cultivation of it. This letter should have gone last night, but it was too late when I came out of court. There is not

much business here for so large a town and county. I hope to finish on Friday.

"I am,

"Your most affectionate Father."

To one of his Sons, on an Excursion in France.

"I see no objection to your staying a fortnight at Paris if you like it, as your knowledge of my aversion to the shrugging, grinning, and declension of the head, grimace and foppery of a Frenchman, will secure you most effectually against that contagious leprosy of good-breeding, which is too apt to infect the wise as well as the foolish, and always disfigures the best understanding. Plainness and simplicity of manners, with natural ease and civility, are the distinguishing characteristics of an English gentleman, and when we exchange them for any other, we lose by the exchange. The late lord Bolingbroke used to say, that the greatest compliment which could be paid to any English gentleman, returned from his travels, was to say of him, "that nobody who saw him could "think he had ever been abroad, but that every "body who talked with him would think he was "a native of the countries he had visited;" and there is good sense, a little exaggerated, in the observation,"

Not long after his retirement, he took a house at Wickham in Kent, where he resided occasionally for some years, being in the neighbourhood of lord Eardley, who married his eldest daughter, and had presented him with several grandchildren. Here he enjoyed his garden and his grounds, and the society of many excellent neighbours and friends, as well as of his own family.

Among other friends, he corresponded with the learned and reverend Henry Michell, vicar of Brighton, who wrote remarkably elegant Latin, and sent him, on his retirement, the following votive inscription:

JOHANNI EARDLEIO WILMOT
IN JVRISDICTIONE INTER CIVES NVPER JVDICVM PRÆFECTO
OTIVM DIVTINVM LÆTVM ET SINE MORBO
ET CVM AMICIS JVCVNDVM
SENESCENTI SENESCENS
HENRICUS MICHELL.

Mr. Michell had a large family: his second son, John Henry, (afterwards Fellow of King's College, Cambridge, and now Rector of Buckland, Herts) often spent his holidays, when at Eton, with sir Eardley, who frequently heard from and wrote to him when at Cambridge.

As most of these letters were of the same nature with the letters to his Sons, viz. on the subject of his studies and pursuits, it may not be un-

seasonable to give a few extracts from them, which will afford another proof of the benevolence of his heart.

To Mr. J. H. Michell, at Cambridge.

"London, Jan. 14th, 1779.

"I received yours of the 28th of December, and am very sorry that our ancestors did not think as the Romans did; but as your residence in Cambridge, in this dreary season, will enable you to accumulate a vast heap of Greek lumber, you must comfort yourself (like a miser) with the contemplation of the mitres and crosiers which your treasures will give you. For the sake of the Muses, and in their names, I conjure you to read Longinus again and again, as he will purify your taste, and both enable you to compose yourself, and give you the truest notions of what is really sublime in composition. I shall hardly visit Abingdon till Summer; but if any thing should call me there, I will send to you.

"Mr. Greaves sent me a hare last week; and I hope his resignation did not proceed from his want of health or spirits, for his benevolence and alacrity in doing good interest every man in their preservation. I hope the great storm last week hath not hurt your chapel; it was very violent here indeed. I hear that the damage done by the fire at Queen's College, Oxon, will take near

5000*l.* to repair. The Queen has given 1000*l.* and the two Archbishops and the different Colleges have made handsome presents. The fire at Greenwich is a great national misfortune: the Chapel is quite burnt, but the Hall has escaped: it was finally extinguished yesterday morn."

To the same.

"Wickham, 21st June, 1779.

"I received yours; and when you have mastered Thucydides, your Herculean labours in Greek are all over. I am afraid you are surfeited with Latin and Greek; and if you are, discontinue them, till you find you have a stomach to them; but you are quite mistaken to call Latin and Greek unknown languages, for they are as well known in England now as the modern languages; and if I was to see a mitre on the head of a man who did not understand them, I would pull it off, and beat him with his crosier round his Cathedral.

"Garrick has been extremely and justly lamented, and the greatest funeral honours were paid him yesterday: "We shall never see his like again!"

"I hope the fleets of France and Spain have joined, because it will be only one trouble to beat them both together."

To the same.

" London, Dec. 9, 1779.

" I received your letter some time ago, and am always glad to hear of you, which I did from my son-in-law; and if he had spent his Christmas at Abingdon, I should certainly have taken the great chair, either to have read or slept in; I rather think the latter, as I oftener than usual bow down to that most placid of all Deities,

" Somne, quies rerum, placidissime Somne deorum!"

But my Daughter is so poorly, they don't think of Abingdon; she hath rather mended lately. I have not been in Town a week, and begin to wish myself at Wickham again; for having lived so long as to know the bottom of most party divisions, they cease to be the least entertainment to me; and the conversation in this Town turning entirely upon them, I stand speechless, senseless, and stupified, in the jargon I hear around me, and believe I shall fly to the opera and play-houses for protection.

" When you write next, tell me what you are reading, and be sure engage in no politics that are subsequent to the removal of the Roman Empire to Constantinople, and then I think your imagi-

nation will not be heated so much as to make a rogue or a fool of you.

" Omnia tibi benè et prosperè eveniant !"

To the same.

" Wickham, 1779.

" I have received your letter of the 18th inst., which greatly overpays every civility I could shew to your brother and you; and as I consider my skill in Physic as the only brilliant ray of Divinity about me, I rejoice it has shone upon you so successfully, and shall offer up two small Bantam cocks to Æsculapius on Monday, for the inspiration.

" I am very glad to hear Dr. James[k] is likely to dispose of himself so well, though I cannot help trembling for him and the school; for it will be a very singular piece of good luck, to get a lady of a considerable fortune, able and willing to discharge the duties of a school-mistress completely, and the prosperity of the school will greatly depend upon it."

To the same.

" London, Jan. 4, 1780.

" I was very glad to hear by yours of the last month, that you have renounced all politics. The

[k] Fellow of King's College, and Master of Rugby School.

benevolence of the human mind is more disturbed, and the understanding more perverted by them, than by all the other passions grouped together. It is a science to be left to the few whose business it is to profess and practise it. It is full as dangerous as children playing with gunpowder.

" Your time is very properly disposed of, and I cannot amend it; but I think it should soon be determined whether you are to starve in the Law, or fatten in the Church: the Grecian and Roman Orators will do for either; but as you are, at all events, to speak in English, I advise you to study it intensely, and endeavour to catch the grace, as well as the arrangement of it.

" There is a certain melody in words happily placed, as in sounds, that make their way, through all obstructions, to the heart."

" You cannot spend your time worse than writing to me about nothing; but your last letter is not of that kind, for the disposal of your time, during the interval you mention, is a very serious affair; and having been at the Opera last night, in the most crowded audience I ever saw there, and heard greater applauses of a Dancer than ever echoed from old Tyber's shore, I am clearly of opinion you should go 'prentice to a dancing-master; and as your head turns round a little with the study of the Law, I should hope your heels would make you amends, and enable

you to pave Brighton with gold, and put your statue in the midst of it, incrusted with diamonds; for the money got here by Monsieur Vestris will re-imburse the French all the expence of the war.

" I find from your Father's, and from your letter, that you rather slacken sail in the pursuit of the Law, and that you think of Cambridge again in November, and not of the Inns of Court. Whatever measure is finally resolved upon, let me advise a steady perseverance in it; for a fluctuation of purpose defeats, or at least cripples and retards, the best-concerted plans of advancement. When shall you leave Cambridge for the Summer? If I am at Wickham, you will be sure of finding a hearty welcome from

" Your very sincere friend,

" JOHN EARDLEY WILMOT."

Sir Eardley left Wickham in 1782, when Mr. Michell wrote the following Lines, as

A FAREWELL TO WICKHAM.

WHY does the pensive thought and downcast eye
Betray the melancholy voice of grief?
Why breaks the deep, involuntary sigh,
Still panting for some lost unknown relief?

Does some fair nymph my conscious vows disdain,
Urg'd by caprice, or dark suspicion's wile?
Is disappointed praise the source of pain?
Or does inconstant Fortune cease to smile?

In vain such idle phantoms crowd my soul,
Like midnight dreams that hover in the air;
Far other griefs my anxious mind controul,
Far other scenes of undissembled care.

O Memory! whose power, with magic wand,
Can raise past images of bliss or woe—
Can snatch the pencil from Oblivion's hand,
And make each form with livelier tints to glow;

Thou ever-pleasing, ever-mournful guest,
That bear'st my steps to WILMOT's lov'd abode,
Cease to recal those joys within my breast,
Which Virtue and which WILMOT once bestow'd.

Yet can I e'er forget each rural scene,
Where Innocence and Peace in concert reign,
The silent walk along the village-green,
The opening prospect o'er th' extended plain,

The orient twilight, harbinger of day,
That wakes the hamlet from their early bed,
The rustic flow'rs that round the cottage play,
The oak o'ershadowing the straw-built shed,

The smiling villager, to labour born,
Who hails each season round with new delights,
The blossom'd Spring, the Summer's scented morn,
Autumnal harvests, and gay Winter's nights?

Oh! can I e'er forget those heart-felt joys,
That envious Fortune snatches from my view,
While each fond pleasure every thought employs,
Which Fancy's powers, creative, still renew?

Shall I no more be to those joys restor'd,
By Wisdom temper'd, and by Wit refin'd,
The converse innocent, the festive board,
"The social charities" of WILMOT's mind?

WILMOT, whom loud Ambition's voice in vain
To glory call'd, and to the ear of Kings;
Who spurn'd the pride of pomp, and Fortune's train,
And sought the peace which Virtue only brings;

Who deign'd to teach my reason to explore
(Eager through devious paths unknown to stray)
The infant rudiments of legal lore,
And shew'd, through many a maze, the brighter way.

How oft with Him, o'er Inspiration's page,
In search of truth was pass'd the studious hour?
Ah! what can better cheer declining age,
Or crown its honours, than Religion's pow'r[1]?

Th' oppress'd and innocent, at his command,
Were heard no more their mis'ries to bewail;
Nor could Astræa leave the guilty land,
While the just hand of WILMOT held the scale.

His worth, to none but to himself unknown,
The world admir'd, but not the world *he* sought:
Virtue and Peace were all he wish'd his own—
Virtue and Peace, where'er he came, he brought.

[1] Prov. xvi. 31.

How can I then forget the destin'd hour
That drove me from the sweet retreats I love;
That made me quit dear Wickham's happy bower,
And forc'd me far to other seats to rove?

Farewell! the Muse, inspir'd with secret dread,
Trembling predicts, "Alas! how chang'd thy lot!"
The sportive Graces from thy groves are fled,
The voice of Harmony and Mirth forgot!

Farewell! accept this off'ring which I rear
To thy lov'd scenes—to others now resign'd—
Farewell! thy memory demands a tear,
The warm effusion of a grateful mind.

January 14, 1782.

THE Editor had not intended, when he began, to transcribe so large a portion of these Letters. They are a part only of those in his hands, and are on subjects so interesting to all fathers, and to all sons; and they pourtray the genuine character of an excellent father, and a virtuous man, so much more faithfully and emphatically than any narrative, that the reader will undoubtedly think them a very valuable part of these Memoirs.

His retreat from business not only procured him ease and health, but probably added many years to his life. No one ever more completely enjoyed "otium cum dignitate." His first employment in a morning was to read and study a chapter or two in the Greek Testament. At this period he drew up a Paper, principally for the use of his daughters, which, he told them, contained a true but imperfect account of the Jewish and Christian religions, shewing their relative connexion and dependence, and likewise pointing out many of the corruptions and abuses which had crept into the latter, and made a Reformation necessary for restoring the doctrines contained in the Scriptures, in order to bring the Church back to the state in which our Saviour had established, and the Apostles had left it. It likewise contained some account of the Reformed Churches and Sects which sprung out of them: he observes, that though the Church of England may have a

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Among other branches of science in which sir Eardley informed himself, was that of medicine, not merely in the theoretical, but in the practical part; and the Writer recollects, that in a dangerous illness of one of his daughters, when another Physician of great eminence was called in, and a consultation ensued, at which sir Eardley assisted, the new Doctor asked " who that Physician was?" as he had never seen him before. In the early part of his life, he had attended, in Holland, the lectures of Boerhaave; and in the latter end of it, after his retirement from public life, he regularly attended the lectures of the celebrated Dr. Hunter.

After his retirement he was in the habit of entering in his common-place book the death of his friends and contemporaries, with a short account of them. It will be a further illustration of his

own character, to observe how ready he was to do justice to the worth of others.

" On the 30th of March 1773, Thomas Anson, esquire, of Shuckborough, in the county of Stafford, departed this life: he was the elder brother of lord Anson, who died without issue, and inherited his great acquisitions. He was never married, and, in the former part of his life, had lived many years abroad; was a very ingenious, polite, well-bred man, and dignified all his natural and acquired accomplishments by his universal benevolence and philanthropy."

" 22d July, 1773, Mr. Tracey, Cursitor Baron. He was a cheerful, good-humoured, honest man; a good husband, master, and friend. Having been a very correct taker of Notes in the Court of Chancery, he published three volumes of Reports in the time of lord Hardwicke."

" On the 18th March 1774, died Mr. Baron Adams, upon the circuit at Bedford, in the sixty-fourth year of his age. Doctor Petty reported that he died of the gaol distemper, caught at the Old Bailey, where he attended about a fortnight before. He was a very good Lawyer, and an excellent Judge, having every quality necessary to dignify that character: I never saw him out of

humour in my life, and I knew him intimately for forty years."

"John Ryder, Archbishop of Tuam, died 4th February 1775, in the seventy-eighth year of his age. He married Alice, daughter of John Wilmot, one of the younger sons of Robert Wilmot, of Osmaston, in the county of Derby, esquire, and by her had two sons and four daughters. He was a very humane, generous, benevolent, and beneficent man; a good husband, master, father, and valuable friend. He was affable, courteous, and obliging to every body; and his patronage, protection, and assistance, were open to all who deserved them; and though he practised every Christian virtue himself, he could look over human infirmities in others. In all respects, he was a very excellent man."

"On the 5th day of November, 1782, sir Jas. Burrow, Knight, departed this life, aged 81. He had been Master of the Crown Office near sixty years, and always executed it with the greatest honour and punctuality. I had been intimately acquainted with him above fifty years, and never knew an honester man."

"29th March, 1783, died Dr. Hunter, an eminent anatomist; he was a very benevolent

man, and is a great loss to the public. I was one of the Auditors of the Lectures he lately read[m]."

"15th February 1780, Mr. Justice Blackstone departed this life. He was a very good Lawyer; and the Commentaries he published will embalm his name to all posterity! He was a very honest man, and a firm and steady friend to the Constitution in Church and State."

As these, however, must be considered as the private testimonies of esteem and friendship, a few of them only are transcribed. The eminent person last-mentioned, sir William Blackstone, received some hints from sir Eardley on his Commentaries, as appears by the following letters.

"Carey-street, 22d February, 1766.

"Sir,

"Lord Mansfield did me the honour to inform me, that both you and himself had been so obliging as to mark out a few of the many errors, which I am sensible are to be met with in the Book which I lately published. Nothing can flatter me so much as that you have thought it worth the pains of such a revisal. As my Bookseller is urgent with me for a second impression,

[m] Sir Eardley was then in his 74th year.

I must entreat the favour of you to appoint some hour previous to the Circuit, when I may wait upon you to receive your observations, which will be attended to with great deference and gratitude, by,

"Sir,

"Your most obedient, &c.

"W. BLACKSTONE."

"Mr. Blackstone presents his respects to Mr. Justice Wilmot, and has presumed to make use of the indulgence he was pleased to give him, by submitting to his private inspection his Lectures on Real Property (which will be soon followed by those on Personal Property) entreating the favour of him to return this Volume when perused, after noting in the margin such errors of the grosser kind as he may happen to observe, that Mr. Blackstone may correct them, by cancelling the leaves, before the Book is published.

"Carey-street, 2d May, 1766."

Sir Eardley had a severe illness in the Spring of 1780, which terminated in a Jaundice of the worst kind; and being sent to Bath by sir Noah Thomas, his life was long despaired of, till by taking a medicine which he there met with, he was restored to his family.

The following is an extract from his own account of this illness:

"I was taken ill of the Jaundice the first week in March 1780, and after some time went to Bath; being given over by the Physicians, I was restored to health by a medicine administered to me there by Mrs. Bull." He then mentions some particulars of the medicine, which he took upon finding the Bath waters did him rather harm than good, though he had the advice of two very able and learned Physicians[n]. He thought it was composed of saffron, rhubarb, Castile soap, and aloes, boiled and steeped in old mountain, and was a very pleasant cordial medicine; but what other ingredients there were in it, he said, he was totally ignorant; that he drank only a wine-glass full, night and morning; in a week's time, he perceived himself much better, and began to have a little appetite, &c. He then adds, "I cannot close this

[n] He often mentioned the great liberality of Dr. Moysey, who, when he asked the Doctor's permission to take this medicine, after finding no benefit from any thing else, gave him an encouraging answer: he said he had known it do good, and that he should be happy to be the witness of his recovery, and continued to attend him. Sir Eardley had asked him a short time before, how many weeks might elapse before the curtain closed. Dr. Moysey answered, "Oh sir! you should look to recovery, and the bright side of things." Sir Eardley replied, "I see, Doctor, what you call darkness I call light."

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short imperfect account of my illness, without acknowledging my great obligations to my two daughters[o], who accompanied me to Bath, for their great care and attention to me, to whom, under God's great goodness, I think I owe my life."

[o] It may not be impertinent here to mention, that his eldest daughter, MARY MAROW, wife of the right honourable lord Eardley, survived her father about two years. She is buried at Berkswell, in the county of Warwick. The following is her epitaph:

"Sacred to the memory
of MARY MAROW, wife of the right honourable lord Eardley,
And eldest daughter of sir John Eardley Wilmot, Knt.
Lord Chief Justice of the court of Common Pleas.

Her conduct,
in all the various relations of life,
was so eminently distinguished,
that Providence seemed to have raised her up,
as an example
to the age in which she lived,
that rank and fortune may be enjoyed
with the purest innocency of life,
and the unremitting exercise of
every Christian virtue.

She died, universally lamented, 1st March 1794,
aged 48, and lies here interred.
This memorial of affection and sorrow
is erected by her surviving husband."

To his second Son.

" Bath, 15th May, 1780.

" I can now assure you that the medicine hath had a very good effect; though I cannot expect to dislodge the yellow-eyed monster entirely, but by air and exercise; it must be a work of time, and I would not wish it to be too rapid, for fear of a return. It hath been no small addition to my joy in the present state of my amendment, that it hath delivered you from a long journey, and a most disagreeable residence in a sick room with a distempered cadaver; and in the situation I have been in, I know there could have been no participation for you in the pleasures of this place.

" I shall set out on Wednesday; I am very glad to hear you are all well, and if the blessings of a skeleton are worth having, you receive them from

" Your affectionate Father,

" J. E. WILMOT."

From Bath he went to Brighthelmston, in the beginning of June, and was no sooner arrived there, than the accounts followed him of the Riots in London; on the reports being brought to him every day of the increasing tumults and mischief,

How can I then forget the destin'd hour
That drove me from the sweet retreats I love;
That made me quit dear Wickham's happy bower,
And forc'd me far to other seats to rove?

Farewell! the Muse, inspir'd with secret dread,
Trembling predicts, "Alas! how chang'd thy lot!"
The sportive Graces from thy groves are fled,
The voice of Harmony and Mirth forgot!

Farewell! accept this off'ring which I rear
To thy lov'd scenes—to others now resign'd—
Farewell! thy memory demands a tear,
The warm effusion of a grateful mind.

January 14, 1782.

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him. Genuine and uniform humility was one of his most characteristic virtues. With superior talents from nature, improved by unremitting industry and extensive learning, both in and out of his Profession, he possessed such native humbleness of mind and simplicity of manners, that no rank nor station ever made him think highly of himself, or meanly of others. In short, when we contemplate his various excellencies, we find ourselves at a loss whether most to admire, his deep and extensive learning and penetration as a Lawyer; his industry, probity, firmness, wisdom, and patience as a Judge; his taste and elegant accomplishments as a Scholar; his urbanity and refined sentiments as a Gentleman; or his piety and humility as a Christian. But when we approach nearer, and view him in the shade of private life, then we may confidently assert, that he has furnished an illustrious and encouraging example of the progress which man, with all his frailties, may make towards the attainment and exercise of those virtues and graces, of which the great Teacher and Saviour of mankind condescended, in his own person, to exhibit the sole perfect and inimitable pattern!

EPITAPH

ON

MONUMENT IN BERKSWELL CHURCH, WARWICKSHIRE.

In the Vault under this Church lie the Bodies of
Sir John Eardley Wilmot, Knt., and Dame Sarah his Wife,
Daughter of Thomas Rivett of Derby, Esq.
He was the second Son of Robert Wilmot of Osmaston, in the county of Derby, Esq.
By Ursula his Wife, one of the Daughters and Co-heirs of
Sir Samuel Marow of this place, Bart. and Dame Mary his Wife,
Only Daughter and Heir of Sir Arthur Cayley,
Of Newland, of the county of the city of Coventry, Knt.

He was educated at Litchfield and at Westminster Schools,
And at Trinity Hall in the University of Cambridge;
From thence he removed to the Inner Temple,
And, being called to the Bar, practised as a Barrister about twenty-three years.

Upon the 11th day of February, 1755,
He was appointed
One of his Majesty's Justices of the Court of King's Bench;
Upon the 19th day of November, 1756,
One of the Commissioners for the Custody of the Great Seal;
Upon the 20th day of August, 1766,
Chief Justice of the Court of Common Pleas;
Which office he resigned upon the 26th day of January, 1771.

He had Issue, three Sons:
Robert, who died a Bachelor in the East Indies,
John, who married the only Daughter of Sam. Sainthill, Esq.
And Eardley;

Also two Daughters,
Mary Marow, married to the Right Hon. Lord Eardley,
Of Belvidere, in the county of Kent;
Elizabeth, married to Thomas Blomefield, Esq. of the Royal Artillery.

Dame Sarah departed this life on the 27th July, 1772,
In the fifty-first year of her age;
And Sir J. Eardley Wilmot, on the 5th February, 1792,
In the 83d of his age.

APPENDIX A.

ON THE

ABSTRACT QUESTION

OF

RIGHT TO TAX THE COLONIES.

A FRAGMENT, WRITTEN IN 1765 OR 1766 [a].

THE first principle in the system of political science is, that all political Government is founded and bottomed upon the consent of the People.

[a] It appears to be a first draft, and it is without date or title; but it is believed to have been written on an idea, that the opinion of the Judges might have been required in the House of Lords on the mere question of Law. The following note of Mr. Hussey, an eminent Lawyer, and distinguished Member of Parliament at that time, seems to have some connexion with it.

Endorsed "Jan. 1766.

"Mr. Hussey presents his compliments to Mr. Justice Wilmot, and has taken the liberty to send him a pamphlet which

Though force and violence cleared the way for many Establishments, yet intervening compact and agreement is the only solid basis of the "right to command," which is the supreme power, and of the corresponding "obligation to obey," which is the duty of the governed. That government fixes the right of declaring the will of the whole association in one or more select persons, or bodies of men, and also the right of applying the strength of the whole association to enforce obedience to it. Hence originate, first the Legislative, and secondly the Executive power in all states; and though variously diversified and modified, according to the tempers, situations, and circumstances of the people, either upon the first formation of the government, or the final settlement and establishment of it; that man, or body or bodies of men, in whom this supreme power is vested, is, or are, the central point of the association, and the true and only representation of

he thinks treats the subject of the Colonies with ability. All Mr. Pitt's arguments to prove Great Britain had no right to tax the Colonies seem to be taken from it. The principal argument (if not the only one) was this: That the right of taxing was solely in the Commons, by virtue of a local territorial Representation; that the other branches of the Legislature had nothing to do with taxation itself, their concurrence being necessary only to effectuate and carry the act into execution; admitting, at the same time, that in every other case the Legislature had a right to bind the Colonies.

the whole community. That supremacy attaches upon the person of every individual, and whatever it does is as much the act of every individual, as if he had, with his own voice, or under his own hand, declared his assent to it. When that supreme power commands individuals to pay a part of their property for the use of the State, it is only commanding them to perform their agreement. And as all persons who are born under the protection of that power, are entitled to that protection at their birth, and to every civil right which that supreme power has given; so the obligation to obey attaches upon birth, and protection and subjection are coeval and coexistent. Neither length of time, nor change of place, can vary, affect, or rescind, these reciprocal obligations. The form or knot can only be untied by the hand which tied it. Nothing but the consent of the supreme power, which represents the whole community, can release the duty of subjection[b].

The right of taxing is one most essential branch of that supremacy; and therefore, unless the Legislature has released this branch of their sovereignty; unless they have parted with this most essential inseparable incident, by a clear and explicit declaration of their intention, it must still inhere in them. Is there any such release of

[b] The supreme legislative power is deposited here with the King and the two Houses of Parliament.

this right or not? The King could no more release it than the Lords or the Commons.

If his charters upon the settlement of the Colonies had, in the strongest terms imaginable, declared that the subjects of this kingdom should not be liable to be taxed by the English Parliament, the grant would have been void.

The King can neither naturalize a foreigner, nor unnaturalize a subject: an act of Parliament can do both.

The Crown would have been incompetent to such a grant; but in fact the Crown has made no such grant, nor ever attempted it.

In the printed charters there is not a word or expression which denotes an intention in the Crown to absolve the Settlers there from their civil obligations, to which their birth had subjected them.

In the Pennsylvania charter, the compact is, " not to tax without consent of Proprietor or As- " sembly, or without an Act of Parliament."

The charters, from one end to the other, mark their dependency and subordination; and this dependency and subordination have been affirmed and admitted by every Act of Parliament which has been made for about a century now last past, regarding the Colonies. Indeed the right of the Legislature to bind the Colonies is not denied, except as to the right of external taxation. But

it is objected, that we have not in fact taxed the Colonies *internally*, and we have no right to do it, because they are not represented. It is said that we may levy taxes to regulate Trade and Commerce, but then the Taxes are only the sanctions of the Regulation by way of punishment for the breach of the Regulation; and not to be considered as Taxes "*eo nomine*" for the use and benefit of Government.

If there be any weight in the objection "of not being represented," it applies as forcibly to external as internal taxation: For I cannot explore the difference between them; if my property, in the course of a year, would have been a hundred pounds, and by virtue of an Act of Parliament made here, that property is only eighty pounds, I have twenty less in my pocket. If the Law necessarily produces this consequence, the means it employs to produce it are totally immaterial and indifferent.

It may be said there is a difference between a Law which hinders me from increasing my fortune twenty pounds in a hundred, and a law which takes twenty out of a hundred already gotten. It is a difference in words, but not in substance; for I have twenty pounds less in both cases than I should have had, if no such law had been made.

The natural rights of mankind are more broken

in upon by commanding to sell what they have to Great Britain, and to buy what they want of Great Britain, by which they lose, and Great Britain gains, twenty per cent. than by taking twenty per cent. directly and immediately. But in what Act of Parliament, in what Law-book, is this distinction to be found? Where or how has this great branch of sovereignty been limited and confined to any particular mode of taxation?—Most absurd, to admit the right of Legislature in one instance and not in the other! But because we have not done it, they infer the non-existence of the right, from the non-exertion of it. We have done it, not *in specie*, but *in genere:* It does as internally affect me to pay twenty pounds for Customs, as if laid upon the land which produces the goods for which those Customs are paid.

If this general right of taxation were divisible and separable in its nature, yet the dividing line must be shewn and proved to have been made by the Legislature. For such a chimera was never yet seen in any state, that the supreme power of the mother country was obliged to protect its colonies, without the means necessary to enable it to give that protection. Is the existence of such a chimera to be presumed? No inferences or presumptions are to be made, so derogatory to the wisdom, the honour, and the duty, arising from the trust reposed in the Legislature, that they would make so fantastical, so silly a division

of a most valuable, important, and necessary branch of all their sovereignty.

This line of division may be visible to others, but the eye of my mind is not keen enough to catch the least trace of it. It appears to me to be a visionary, unreal mockery of that unity of the sovereign power, which the Legislature has a right to exercise over all its subjects. But suppose there be a difference between internal and external taxation, because the one abstracts from what the people have, and the other only by consequence prevents the people from having; it is then objected, that all Taxes are the gift of the people, and that no gift can be valid which is made by persons who have no right to the thing given; and that the representation here is territorial, and can only virtually comprise non-electors residing within Great Britain; and as the Colonists are not even virtually represented in Parliament, they cannot be taxed by Parliament.

The objection is founded upon this mistake: —That it considers a provision, which respects the mode of constituting the supreme legislative power, for the principle of the obligation to obey it. The obligation arises from the original contract expressed or implied, by which individuals have agreed to pay what the supreme Legislative power commands them to pay. That contract ascertains how that supreme Legislature should be constituted; that is, the King, the House of

Lords, and a body of men, to be from time to time nominated by a particular class, intrusted by the whole community with that nomination. But the members of that association are not bound to pay a Tax because they are represented; but because they have agreed to pay what the supreme power, consisting of that representative, together with the King and the House of Lords, shall command them to pay. What proves this doctrine beyond the possibility of a doubt, is, that the Representatives can no more give their Constituents' money away without the concurrence of the King and the House of Lords, than the King or the Lords could take it without their concurrence.

The forms and fashions of passing money-bills do not vary and alter the source of the obligation, which reaches all indiscriminately, whether they have a voice in the election of the members of the House of Commons or not.

The consent of the non-electors lies a degree lower; but it lies at the bottom as to every exertion of Legislative authority, as well as the consent of the persons intrusted, by the original contract, to make the nomination. It is the nomination of the whole community, by the medium of a defined part of it. The only difference is, that the Electors may change the individuals they name at every new election; but the Non-electors can't vary the Electors whom they have agreed to intrust with the nomination for them. But still

they consent to be bound by what those Representatives do, in concurrence with the King and the Lords. For I repeat, it is the will of the whole Legislature which the People have consented to obey, and not the will of any part of it. There can be no other principle upon which the Non-electors can be bound to pay any Tax here: For they have no otherwise impowered Members of the House of Commons to give the public any part of their property, but by the expressed or implied consent, given in the original contract, to be bound by it[c].

[c] It must be observed, that this Paper is confined solely to the abstract question of "Right:" it does not examine, and is totally independent of, the questions of Equity, Policy, or Expediency.

Mr. Locke's position, in his eighth chapter on Civil Government, namely, that the original compact of all *lawful* Governments must arise from the *express or implied consent* of the individuals which composed it, has been lately controverted by a very able moral and political writer, Archdeacon Paley, in his "Principles of Moral and Political Philosophy," book vi. chap. iii.

This has been answered, with equal ability, by the Rev. Mr. Gisborne, in his "Principles of Moral Philosophy," who seems to have stated the question with equal candour and perspicuity. He does not defend that part of Mr. Locke's position, of there having been, in fact, an original compact by the primitive founders of the state; but he shews, by a deduction of close reasoning, that the only just foundation of civil government is the consent of the governed; that it is the foundation on which civil government was erected among men; and that

the principle is still the corner-stone of civil power.—Vide the "Principles of Moral Philosophy," chap. 17 and 18.

This seems likewise to have been the opinion of a late enlightened and eloquent historian, Dr. Robertson, who, speaking of the *obligation* which every freeman has to take arms in defence of the Community to which he belonged, says, "I do "not mean that any contract of this kind was formally con- "cluded, or mutually ratified, by any legal solemnity. It was "established by *tacit consent*, like the other compacts that "*hold Society together*."—Robertson's "History of Charles V." vol. i. page 18, note H.

APPENDIX B.

SENTENCE

PRONOUNCED BY

MR. JUSTICE WILMOT,

ON

JOHN WILLIAMS,

TRIED AND CONVICTED OF PUBLISHING NO. 45 OF THE NORTH BRITON, AUG. 1763.

IN THE KING'S BENCH.

THE KING *versus* JOHN WILLIAMS[a].

JOHN WILLIAMS!

You have been tried and convicted of publishing a very scandalous and seditious libel, informing the public, "That in a speech which the King made to his Parliament in April 1763, his Majesty had been influenced to give the sanction

[a] This Sentence contains some useful hints to printers and publishers, as well as to the writers of libels, and to those who employ them.

of his sacred name to the most odious measures, and the most unjustifiable declarations; that one whole sentence in that speech was an infamous fallacy; that the professions, therein made, of economy, were empty professions; that the honour of the Crown was sunk even to prostitution; that by the preliminary articles of the peace, which are called a most fallacious and baneful negotiation, all our most valuable conquests are agreed to be restored; and strongly insinuating that the Parliamentary approbation of those articles was procured by corruption—a Libel, wherein not only the Wisdom, the Honour, and the Veracity of the King are impeached; but wherein the name of Liberty is infamously abused, and employed to encourage the most profligate licentiousness, and to excite an opposition, insolently called a noble opposition, to the execution of a law made for raising part of the national supplies; and in this Paper, (contrary to one of the oldest and purest of our maxims) the King himself is considered, and not his Ministers, as responsible to his people, equally with the meanest of his subjects.

To such a pitch is the licentiousness of this age grown, that scarce a day passes without a malevolent endeavour to defame some measure of Government, some decision of a Court of Justice, or some public or private character. But this Libel has still a more malignant tendency, and under an

affected zeal for Liberty, it endeavours to subvert and extinguish the principles which support it: for Liberty arises out of obedience to the Laws, and a due execution of them. This Libel strikes at the Crown itself, and under a plausible pretence of affection for the person of the King, aims at destroying that confidence in his Government, which is the most solid foundation of the allegiance of his people.

This nation might already have felt the fatal effects of this poison, if it had not been blessed with a Prince who is universally known to be endowed with every public and every private virtue; under whose government the laws of this Kingdom, and the rights, liberties, and interests of his people, are most inviolably maintained.

If experience points out the impropriety of a law, the Legislature is always open to an application for its repeal. But whilst it subsists, it must be implicitly obeyed. Resistance to the execution of a law, not only disjoints the whole frame, but tends to the immediate dissolution of all Government, and therefore is a most malignant species of High Treason.

Liberty can exist only under an empire of laws, made with the concurrence of the people; and therefore cannot be more dangerously wounded than by the resistance encouraged and applauded in this Paper. The whole nation assembled in Parliament was so fired with indignation

at the calumny and dangerous tendency of it, that with one voice, as soon as they met, they marked their abhorrence and detestation of it; and if it has not been attended with any bad consequences, it has been owing to the conviction which every man feels in his own breast, of the scandalous falsehoods contained in it.

You by your affidavit, and your Counsel at the bar by arguments, have endeavoured to extenuate your offence in the publishing this Paper. It has been said there is a great difference between an author and a publisher, and that a publisher is only criminal in the second degree. The writer in general is the greater delinquent, but there may be a greater delinquent than the writer—the person who originally employs him; perhaps the poverty, rather than the will, of the author, dips the writer's pen in gall. * * * * The first printer is the next in degree. There may be many degrees of guilt even amongst publishers; and that degree of guilt which you have contracted by the publication of this Libel, has been the object of the consideration of this Court, in order that your punishment may be proportioned to it. You have, by your affidavit, sworn that you did not, by this publication, intend either to vilify or traduce his Majesty, or impeach his veracity or honour, or to excite disobedience or insurrection amongst his subjects; or to violate or disturb the public tranquillity, good order, or peace of this

kingdom; and that as this Paper had been transcribed at length in some, and very long extracts inserted in others, and parts thereof in many daily and evening papers, and other periodical works, which were about that time published in London; and as none of the printers or publishers of such papers, or periodical productions, had been prosecuted, or even threatened with any prosecution, to your knowledge or belief, that you did not imagine you was guilty of any offence by the publication; and it has been urged, that you sold this Paper in the ordinary way of trade, publicly and openly; are in moderate circumstances, and have nothing but your industry and business to support you.

Your case, as the case of a publisher in general, is a very unfavourable one, because publishers give an activity and operation to the poison which is mixed up in private, and would lie in a quiescent state, if no persons could be found to disperse it; and as the prevention of the crime is the end and aim of all criminal jurisdiction, there are no means so likely to attain that end, as the spirited exertion of that jurisdiction against printers and publishers. Whatever is the immediate motive of the printer or publisher, yet they must, and ought to be, answerable for the act done, and the Law implies the guilt, and imputes to them some degree of that intent which the act itself discloses. But facts and circumstances may ag-

gravate or extenuate that implied guilt, and vary the degrees of it. The person who prints and publishes a Libel in concert with the author, or under his immediate direction, stands the first, and the person who cries it about the streets, without knowing the contents or import of it, stands the last in the arrangement of that class of criminals; and between these two extremes the guilt rises and falls according to the circumstances accompanying each publication. Those circumstances must determine the quantity of the guilt and of the punishment. The affidavit you have made as to facts and circumstances, which are open to examination and inquiry, and which may be disproved if they are not true, is material, and has had great weight with the Court in the measuring and estimating your guilt: but that part of your affidavit, which negatives the malevolence of your intention, is a secret of your own heart only, and is not a foundation upon which human justice can regulate her decisions. You have sworn yourself quite innocent, which directly encounters the criminality the Law implies; and therefore our judgments must be regulated, not by the exculpating oath of the person convicted, but by the facts and circumstances adduced to aggravate or extenuate the implied criminality of the Publication; and you seem to have gone a great way in saying you did not imagine you was guilty of any offence in the publication of a paper, so appa-

rently profligate, for which you knew the printer was then under prosecution. As to selling the Paper in the ordinary way of your trade, publicly and openly, it was not the buying and selling of these Papers incautiously, as booksellers sometimes do, but you sent 1600 copies of this edition to be bound, sewed, and stitched; and, in corroboration of that evidence, it was proved that you sent an order for 200 of them under your hand, and they were accordingly sent you by the binder. This shews a settled premeditated plan of publication, not an inadvertent compliance with the demands of your customers. And the selling such a Paper, publicly and openly, marked with such a note at the bottom of it, was rather an audacious defiance of the Law, than a circumstance to mitigate the transgression of it. That note points out the very passages noticed by the Information against the printer, and could be inserted for no other purpose but to draw the eye and fix the attention of the reader on the most virulent parts of the Paper; it repels any presumption of your ignorance of the indignation of Government at this Paper.

You do not pretend, by your affidavit, that you did not know the contents of the Paper, or of the purport of the note at the bottom of it. But criminal as you appear to the Court from these circumstances, yet the Court does not see you so deeply involved in the guilt of the author, as the

first printer or publisher. * * * * * There is nothing laid before the Court to shew any connexion with the author; it does not appear where it was printed, or who printed it. It was first published in April; and for four months together, it had passed through all the channels by which calumny and scandal are diffused all over the kingdom. And except the author and first printer, it had passed (as is sworn by your affidavit, and not denied) unnoticed and with impunity; and the Information against the printer was not tried, as it might have been, in August 1763, when this edition was published; for he pleaded in Trinity Term, and he might have been tried at the Sittings after. And though it is impossible you could conceive it to be a harmless and innocent Paper, you might not think it so criminal as it was, to let out this scandal again in 1600 volumes; and as the author was discovered, and the indignation of Government suspended against the first printer, you might be deluded by bad examples to err with the multitude in this lucrative but dangerous commerce, and think that the mischief it was capable of doing, was done before the publication of this edition.

It is material that you did not single out this Paper, and toss it up as a fire-brand by itself to inflame the people, but as a part of a much larger work, and to complete the Edition. The Court, disposed always to temper justice with mercy, has

given these alleviating circumstances their full weight in the judgment which will be pronounced; and if these circumstances had not distinguished your case greatly from the author and first printer, a much severer punishment must have been inflicted upon you. The affidavit as to your circumstances not being explained, the judgment of the Court is, that you pay a fine to the King of 100*l.*; that you be set once in and upon the pillory in New Palace Yard, for one hour, between the hours of twelve at noon and two in the afternoon; that you be imprisoned in the custody of the Marshal of this Court, for the space of six months; and that, at the end of the six months, you give security for your good behaviour for the space of seven years, yourself in 500*l.* and two sufficient sureties in 250*l.* each; and that you be kept in custody till you have paid such fine, and given such security.

Adams, [illegible]

Allen, [illegible]

Anon, [illegible]

Anonymous, [illegible]

[illegible], [illegible]

Anon, [illegible]

Anon, [illegible]

Anon, [illegible]

Anon, [illegible]

Bacon, [illegible]

Pinckney, [illegible]

Anon, [illegible]

Bailey, [illegible]

Burrow, [illegible]

Thornton, Bart.

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ERRATA.

Page	Line	
42	-	10, dele the comma after the word "writing."
74	-	21, transpose the words "only point."
123	-	33, add in capitals at the end, "W. S."
176	-	10, add after "it," the mark of reference "i."
208	-	1, add "one" before "moment."